

**PUBLIC EMPLOYEE RELATIONS BOARD
FY18-19 Performance Oversight Questions
Committee on Labor and Workforce Development
Councilmember Elissa Silverman (At-Large), Chair**

I. Agency Priorities, Performance, and Evaluations

1. Please discuss PERB's top five priorities.

a. How did the agency address its top five priorities in FY2018?

Response:

- i. Second Tuesdays at PERB – the Agency continued the monthly two-hour labor/management training program initiated in 2014. In FY2018 PERB conducted eight such sessions.
- ii. Agency-Specific Trainings – the Agency expanded labor/management training to specific agencies. In FY2018, PERB conducted five agency-specific training sessions. Each session was four hours.
- iii. Rules Amendment – the Agency begin its review and revision of PERB rules.
- iv. Website Case Search – the Agency created a user-friendly case data base on the PERB website. PERB worked with OCTO to create and launch the new case search in October 2018.
- v. Human Resource Assistance – the Agency signed an MOU with DCHR establishing a formal relationship with it as a resource for assistance with personnel needs.

b. What are the agency's top five priorities in FY2019? Please explain how the agency expects to address these priorities in FY2019.

Response:

- i. Modernize information technology infrastructure. Upgrade old and/or outdated technological items such as iPad, iPhone, laptops, desktop computers, and Microsoft Office suite.
- ii. Develop an e-filing system. Work with OCTO in the various steps of the creation, budgeting, and planning for new e-filing system.
- iii. In-house training center – With the additional space acquired during the latter part of FY2018, PERB will explore need and possibility for office construction to create the in-house training center.
- iv. Second Tuesdays at PERB training sessions – PERB plans to hold eight sessions this Fiscal Year.
- v. Agency and Union specific training. PERB will continue to provide its four-hour training to agency managers and union officials.

2. Please list each **program** or body of work operated or administered by the PERB during FY2018 and FY2019, to date. Highlight any programs new in FY2018 or FY2019. For each program, please provide a description of the program, the office that carries out the program, activities in FY18 and FY19, and any documented results of the program.

Response:

- a. Hearings – Generally, conducted for Unfair Labor Practice and Standard of Conduct cases. Hearings allow the parties to present evidence to a fact-finder (Hearing Examiner) who ultimately prepares a report and recommendations to the Board. In FY2018 there were eight hearings. For FY 2019-Q1, there have been seven.
 - b. Mediations – Generally, conducted prior to hearings to encourage the parties to reach a mutually agreeable result prior to further litigation.
 - c. Training Program – Second Tuesdays at PERB are conducted monthly for 2 hours for both management and union participation. Agency-Specific or Union-Specific training sessions are conducted for 4 hours upon request. Training is conducted by labor relations experts.
 - d. Representation Elections – When petitioned, PERB conducts representation elections to allow employees to determine union representation.
3. Please describe any **initiatives** that the PERB implemented in FY2018 or FY2019, to date, to improve the internal operations of the agency or the interaction of the agency with external parties. Please describe the results, or expected results, of each initiative.

Response:

In FY2018

- a. Successfully launched the case search website to allow easy access and searches of PERB cases
- b. Entered a Memorandum of Understanding with Human Resources to assist with processing of personnel matters
- c. Initiated a scheduling program with an external application called Vyte. To assist with PERB's interaction with external parties. The results have assisted in assisting parties coordinate schedules for hearings and mediations

In FY2019

- d. Initiated the improvement of Information Technology infrastructure to improve internal operations.

4. Please provide a copy of the PERB's FY2018 **performance accountability report**.

Response:

See Attachment A.

- a. Please explain which performance plan strategic objectives and key performance indicators (KPIs) were met or completed in FY2018 and which were not.

Response:

Met:

- i. 64.9 % percentage of timely disposition of FY2018 Unfair Labor Practice and Standard of Conduct cases by decision and order, withdrawal, dismissal or settlement.
- ii. 100% percentage of timely disposition of FY2018 Representation cases.
- iii. 50% percentage of timely disposition of FY2018 Negotiability Appeal cases.
- iv. 52.6% percentage of timely disposition of FY2018 Arbitration Review Requests.
- v. 60% percentage of timely disposition of FY2018 Compensation Negotiation Impasse Cases.
- vi. 100% percentage of timely disposition of FY2018 NonCompensation Negotiation Impasse cases.
- vii. 100% percent of training, outreach and facilitation activities conducted.
- viii. 22.5% percentage of participants involved in training, outreach and facilitation activities.
- ix. 100% percentage of FY2018 Unfair Labor Practice and Standard of Conduct cases sent to mediation within 30 days of the filing of a response.

Unmet:

- i. Percent of FY '10- FY '17 Unfair Labor Practice and Standard of Conduct cases resolved.
- ii. Resolve all FY '08-FY '13 Unfair Labor Practice and Standard of Conduct cases.
- iii. Percentage of disposition of cases by Board Decisions.
- iv. Percentage of cases settled in mediation.

- a. For any met or completed objective, also note whether they were completed by the project completion date of the objective and/or KPI and within budget. If they were not on time or within budget, please provide an explanation.

Response:

- i. All met or completed objectives and KPIs were completed by projected completion date and within budget.

- b. For any objective not met or completed, please provide an explanation.

Response:

Unmet:

- i. Percent of FY2010- FY2017 Unfair Labor Practice and Standard of Conduct cases resolved –PERB’s FY2018 goal for this KPI was nearly met with 71.8% out of the goal of 75%. This KPI was not met due to difficulty scheduling hearings and mediations caused by scheduling conflicts with parties, postponements, and change of representatives.
- ii. Resolve all FY2008-FY2013 Unfair Labor Practice and Standard of Conduct cases – There were only two cases in this category; an FY2010 case and FY2013 case. The FY2010 case was on hold allowing parties to complete a backpay assessment for employees. We expected the completion of the assessment by the end of the FY 18. However, it was not resolved until January 2019. The case is now closed. The FY2013 case is a case remand back to the Board. Another hearing. The hearing examiner’s report and recommendations have been received. The case is now ready for staff to draft a Decision and Order.
- iii. Percentage of disposition of cases by Board Decisions – FY2018 PERB closed 94 cases of which 44 were closed by Board decision and 50 cases were closed by settlement, withdrawal or administrative dismissal. This KPI was nearly met with 46.8% out of the goal of 50%.
- iv. Percentage of cases settled in mediation – PERB’s FY2018 goal for this KPI was not met with 8.5% out of the goal of 25%. This goal was overly optimistic.

5. Regarding the PERB’s FY2019 **performance plan:**

- a. Please provide a copy of the PERB’s FY2019 performance plan as submitted to the Office of the City Administrator.

Response:

See Attachment B.

- b. Discuss any changes to any outcomes measurements in FY2018 or FY2019, including the outcomes to be measured or changes to the targets or goals of outcomes; list each specifically and explain why it was dropped, added, or changed.

Response:

- i. Added: Number of Unfair Labor Practice and Standard of Conduct hearings scheduled within 30 days after mediation in Fiscal Year – this Workload Measure was added to the FY2019 Performance Plan to improve and track our case timelines.
- ii. Changed: Number of Arbitration Review Requests resolved within 120 days of filing in Fiscal Year – this Workload Measure was changed for FY 19 Performance Plan, we added the specific measure of 120-day.

- iii. Added: Number of Representation cases filed with PERB in Fiscal Year – this Workload Measure was added to the FY2019 Performance Plan to track new cases filed and to parallel the number of cases closed that are tracked.
- iv. Added: Number of Negotiability cases filed with PERB in Fiscal Year – this Workload Measure was added to the FY2019 Performance Plan to track new cases filed and to parallel the number of cases closed that are tracked.
- v. Added: Number of NonCompensation Negotiation Impasse cases filed with PERB in Fiscal Year – this Workload Measure was added to the FY2019 Performance Plan to track new cases filed and to parallel the number of cases closed that are tracked.
- vi. Added: Number of Compensation Negotiation Impasse cases filed with PERB in Fiscal Year – this Workload Measure was added to the FY2019 Performance Plan to track new cases filed and to parallel the number of cases closed that are tracked.
- vii. Added: Number of cases in which a hearing was held in Fiscal Year – this Workload Measure was added to the FY2019 Performance Plan to improve tracking of hearings, to improve case management, and to better understand case timelines.
- viii. Added: Number of days from the conclusion of hearing to Board Decision in Fiscal Year – this Workload Measure was added to the FY2019 Performance Plan to understand case timelines.
- ix. Added: Number of meditations held within 45 days of filing date in Fiscal Year – this Workload Measure was added to the FY2019 Performance Plan to create a target for processing cases.

6. Please provide a list of all **studies, research papers, reports, evaluations, and analyses**, including those provided by contractors or consultants, that the PERB prepared or contracted for during FY2018 and FY2019, to date.

Response:

None

7. Please list and describe any **investigations, audits, or reports by outside entities** that involve the PERB or any employee that were conducted during FY2018 and FY2019, to date, or that are ongoing. Attach copies of any such document. Include any routine or ad hoc monitoring, site reviews, desk audits, or other reviews or audits by federal agencies, the District Inspector General, the DC Auditor, or any other local or federal governmental entity.

Response:

None.

8. Please list all **recommendations identified by the Office of the Inspector General, D.C. Auditor, or other federal or local oversight entities** during FY2017, FY2018, or FY2019, to date about the PERB. Please provide an update on what actions have been

taken to address each recommendation. If the recommendation has not been implemented, please explain why.

Response:

None

9. Please list all **reports or reporting** currently required of the agency in federal law, the District of Columbia Code, or Municipal Regulations. For each, include

Response:

- a. The statutory code or regulatory citation:

- i. 27 DCMR 831.1
- i. D.C. Official Code 2-218.46
- ii. D.C. Official Code 2-218.51
- iii. D.C. Official Code 2-218.01
- iv. D.C. Official Code 2-218.63
- v. D.C. Official Code 2-218.41

- b. Brief description of the requirement:

Response:

- i. 27 DCMR 831.1- Each Agency Director must sign and acknowledge the agency's Expendable Budget and SBE minimum expenditures for the fiscal year.
- ii. D.C. Official Code 2-218.46- Performance and subcontracting requirements
- iii. D.C. Official Code 2-218.51- Waiver of Subcontracting Requirement
- iv. D.C. Official Code 2-218.01- The Small and Certified Business Enterprise Development and Assistance Amendment Act of 2014, effective June 10, 2014
- v. D.C. Official Code 2-218.63- Penalties
- vi. D.C. Official Code 2-218.410- Goals for District Agencies

- c. Any report deadlines:

Response:

- i. Expendable Budget and SBE Goal due September 30
- ii. Approval of Expenditures due each quarter

- d. Most recent submission date:

Response:

- i. The Expendable Budget and SBE Goal on September 30, 2018.

- e. A description of whether the agency is in compliance with these requirements, and if not, why not.

Response:

- i. In compliance.

10. Please attach a copy the agency's FOIA disclosure report for FY2017 and FY2018.

Response:

See Attachment C.

11. Regarding FOIA requests for FY2018 and FY2019, as of Feb. 1, 2019, that were submitted to your agency, please complete the following table.

Response:

Although no FOIA requests were received in FY18, one pending FY17 request was completed in FY18. The request asked for PERB employee information such as names, job titles, salaries, and email addresses. We directed the requester to the DC Human Resources website where the majority of this information is readily available. Employee email addresses were identified as exempt under section 2-534(a)(2) of the D.C. Official Code. No documents were provided to the requester.

FOIA Requests, FY18 and FY19

	FY18	FY19, as of Feb. 1, 2019
Total FOIA requests received	0	0
Number of requests granted in full (no exemptions claimed)	0	0
Number of requests granted but which redacted or omitted some material according to FOIA exemptions	0	0
Number of requests denied in full (i.e., all requested material exempt from disclosure)	0	0
Number of requests for which the agency identified no responsive documents or records	0	0

12. Please confirm whether PERB posts all FOIA requests and responses on the DC Government FOIA Reading Room, at <https://foia-dc.gov/App/ReadingRoom.aspx>. If PERB does not post all FOIA requests on the DC Government FOIA Reading Room, explain why PERB does not post.

Response:

We receive very few FOIA requests and have not yet posted any requests or responses in the D.C. Government FOIA Reading Room. It is our understanding that there is no requirement to post requests and responses in the reading room. Frequently requested documents such as decisions and orders and certifications can be found on our website.

II. Budget and Expenditures

13. **Budget.** Please complete the attached table in Excel showing your agency's budget, including Council-approved original budget, revised budget (after reprogrammings, etc.), and actual expenditures, by program and activity, for fiscal years 2018, and the first quarter of 2019. For each activity, please include total amount budgeted and break down the budget by funding source (federal, local, special purpose revenue, or intra-district funds). Include any over- or under-spending. Explain any variances between the revised budget and actual expenditures for fiscal year 2018 for each program and activity code.

Response:

See Attachment D.

14. Please provide the following information for all **intra-District memoranda of understanding (MOUs)** for FY2018 and FY2019 to date, including anticipated MOUs for the remainder of FY2019.
- Attach copies of all intra-district MOUs.
 - For each MOU, including anticipated MOUs, complete the attached table in Excel.

Response:

See Attachment E.

15. Please provide the following information for all **intra-District memoranda of agreement (MOAs)** for FY2018 and FY2019 to date, including anticipated MOAs for the remainder of FY2019.
- Attach copies of all intra-district MOAs, other than those for overhead or logistical services, such as routine IT services or security.
 - For each MOU, including anticipated MOUs, complete the table below; add rows as necessary.

Response:

N/A

Memoranda of Agreement, FY18 and FY19, including anticipated MOAs

16. Please provide the following information for each **interagency reprogramming** of funds into and out of the agency for FY2018 and FY2019, to date, including anticipated inter-agency reprogrammings for the remainder of FY2019.
- Please attach copies of the reprogramming documents, including the Agency Fiscal Officer's request memo and the attached reprogramming chart.
 - For each reprogramming, including anticipated reprogrammings, complete the attached chart in Excel

Response:

See Attachment F.

17. Please provide the following for each **intra-agency reprogramming** within your agency during FY2018 and FY2019, to date, as well as any anticipated intra-agency reprogrammings for the remainder of FY2019.
- Please attach copies of any reprogramming documents.
 - For each reprogramming, including anticipated reprogrammings, complete the attached chart in Excel

Response:

See Attachment G.

18. Please list, in chronological order, every **reprogramming** within your agency during FY2018 and FY2019, to date, as well as any anticipated intra-agency reprogramming.
- Please attach copies of any reprogramming documents.
 - For each reprogramming, including anticipated reprogrammings, provide a chart with the following information:
 - The date (actual or expected);
 - The dollar amount (actual or expected);
 - The funding source (i.e. local, federal, SPR);
 - The program, activity, and CSG codes for the originating funds;
 - The program, activity, and CSG codes for the received funds; and
 - A detailed rationale for the reprogramming.

Response:

See Attachment H.

19. For FY18 and FY19, to date, please identify any **special purpose revenue funds** maintained by, used by, or available for use by the agency. For each fund identified, provide:
- The revenue source name and fund code;
 - A description of the program that generates the funds;
 - The revenue funds generated annually by each source or program;
 - An itemized list of each expenditure showing the recipient (if an outside vendor) and specific purpose; and
 - The fund balance at the end of FY18, the current fund balance as of Feb. 1, 2019, and the expected balance at the end of FY19.

Response:

None.

20. Please attach all **budget enhancement requests** submitted by your agency to the Mayor or Chief Financial Officer as part of the budget process for FY2020.

Response:

None.

Expenditures

21. Please complete the attached table in Excel with the following information on each **contract, procurement, and lease** leveraged in FY2018 and FY2019 as of Feb. 1, 2019, with a value amount of \$10,000 or more. “Leveraged” includes any contract, procurement, or lease used by the agency as a new procurement, contract extension, or contract option year execution. This also includes direct payments, if applicable. Treat Human Care Agreements as a contract—aggregating information by vendor for all task orders under the HCA, where relevant.

Response:

See Attachment I.

22. Please complete the following table with information on all **credit card, p-card, or purchase card purchases and expenditures** for FY2018 and 2019, to date; add rows as necessary. Alternatively, you may attach monthly statements with this same information; however, please name the ultimate vendor and specific purpose of the purchase for any Pay Pal or other transaction with an indirect payment service like Pay Pal.

Response:

See Attachment J.

23. Were any complaints filed with the **Contract Appeals Board** in FY2018 or 2019 to date, against or involving your agency or any employee of the agency? If so, please complete the following table with information on each complaint; add rows as necessary.

Response:

None.

III. Agency Organization and Personnel

24. Please provide a current **organizational chart** for the agency, arranged by division and subdivision, as of Feb. 1, 2019.

Response:

See Attachment K.

25. Please complete the attached table in Excel with a **chart of all positions (i.e. Schedule A)** at the agency, as of February 1, 2019.

Response:

See Attachment L.

26. Regarding **term and temp employees**:

- a. For each term employee included in the schedule A who started in the position in FY2018 or FY2019, please provide a brief narrative to specify why the hire was done on a term or basis and not on a continuing basis.

Response:

N/A

- b. For each term or temp employee included in the schedule A, indicate the start date of the position and the expected end date; and

Response:

N/A

- c. For each term employee employed during FY2018 or FY2019 whose hire date is before FY2015, please explain why the employee is term and has not been converted to a permanent employee.

Response:

N/A

27. Please complete the following table on **contract workers** who worked from the agency (e.g. embedded contract workers) during FY2018 or FY2019; add rows as necessary.

Response:

Contract Workers who worked from an agency location, FY18 and FY19

Contract worker's name	Contract number	Job title	Hourly rate	Type of work
FY 2018 Joyce Phillips	PO575788-V3	Staff Assistant	\$16.00 per Hour	Administrative duties, website, and DC Register updates.
FY 2019 Joyce Phillips	PO595413	Staff Assistant	\$16.00 per Hour	Same as above.

28. How many and what percentage of employees at the agency as of Feb. 1, 2019, were **District residents**?

Response:

There are eight (8) employees who are District residents; 100%.

29. Please complete the following charts about the **residency of new hires** in FY18 and FY19, to date:

Response:

DC Residency of Employees Hired in FY 2018

Position Type	Total Number	Number who are District Residents	Percent of total who are District residents
Continuing	2	2	100
Term	0	0	0
Temporary	0	0	0
WAE	0	0	0

DC Residency of Employees Hired in FY 2019, as of Feb. 2019

Response:

No hires in FY2019.

30. For the PERB board, how many members and how many vacancies are there as of Feb. 1, 2019? Please complete the chart below with member information.

Response:

PERB Board Members

Member's name	Confirmation date	Term expiration date	District resident?
Charles Murphy	11/07/2017	12/12/2019	Y
Mary Anne Gibbons	07/11/2017	12/12/2020	Y
Barbara Somson	01/09/2018	12/12/2020	Y
Douglass Warshof	12/04/2018	12/12/2021	Y
Ann Hoffman	11/07/2017	12/12/2019	Y

IV. Public Employee Relations Board

31. Please provide an analysis of how the **new searchable database of cases**, which was funded in the FY18 budget, are working. Is the project complete? Are there any outstanding items? Did the project meet PERB's expectations and all its needs? Are any further changes or upgrades needed or planned?

Response:

The searchable database is working beyond expectations. The "Search PERB Opinions and Cases" on the PERB website brings one to a list of PERB cases with eight columns. The columns are case number, date opened, opinion #, case type, complainant, respondent, D.C. Register citation, and document. The cases can be ordered by any of those criteria by clicking the appropriate heading, a useful feature. The default ordering is reverse chronological order based on the date a case was opened. The search box on the left, labeled "Advanced Search," is reliable. Clicking on Advanced Search brings one to a page with three fields for searching: date opened, keyword/terms, and type of complaint. One can run a search using any or all those fields. The keyword/terms field allows for most Boolean searches. It allows for searches using terms connected by AND, OR, and BUT NOT. One can search for a phrase by putting it in quotation marks. Search terms may be grouped using parentheses.

Is the project complete?

Yes. However, it appears that the Opinions and Certifications, initially listed separately, are now merged. OCTO is working to segregate the two categories.

Are there any outstanding items?

No.

Did the project meet PERB's expectations and all its needs?

The results of the project exceeded PERB's expectations and met its needs.

Are any further changes or upgrades needed or planned?

Not to this application. However, we are still considering an e-filing system.

32. Please provide the following for FY17, FY18 and the first quarter of FY19 (identify the court hearing the appeal when relevant):
- a. The number of decisions issued:

Response:

- i. FY17 – 46 cases
- ii. FY18 – 44 cases
- iii. FY19 Q1 – 6 cases

- b. The average time to issue an initial decision (days):

Response:

The Board does not issue initial decisions.

- c. The average time to issue an opinion (days);

Response:

Case Type	FY 2017	FY 2018	FY 2019 Q1
Arbitration Review Request	102.5	139.9	96
Compensation Unit	194	38.5	In progress
Impasse	153.8	149.3	In progress
Enforcement	No cases filed	131	49
Negotiability	255.7	119.2	No cases filed
Recognition	352	222	In progress
Standard of Conduct	119	163	No cases filed
Unfair Labor Practice	284.4	140.6	In progress
Unit Clarification	132.5	165.5	No cases filed
Unit Modification	305	No cases filed	In progress

- d. The average time to issue a final order;

Response:

- i. See answer c above. The Board issues opinions and orders concurrently.

- e. The number of cases which were settled or withdrawn;

Response:

- i. FY17 – 25 cases
- ii. FY18 – 28 cases
- iii. FY19 Q1 – 0 cases

- f. The number of decisions appealed;

Response:

- i. FY2017:
 - D.C. Superior Court – 13 cases
 - D.C. Court of Appeals – 2 cases
- ii. FY2018:
 - D.C. Superior Court – 6 cases
 - D.C. Court of Appeals – 4 cases

iii. FY2019 Q1:

- D.C. Superior Court – 2 cases
- D.C. Court of Appeals – 1 case

g. The number of pending appeals;

Response:

- i. D.C. Superior Court – 8 cases
- ii. D.C. Court of Appeals – 6 cases

h. The number of successful appeals of PERB decisions (including decisions to remand);

Response:

- i. FY17:
 - D.C. Superior Court – 1 Remand
- ii. FY18:
 - D.C. Superior Court – 1 Remand
 - D.C. Superior Court – 1 Reversal
- iii. FY19:
 - D.C. Superior Court – 1 Reversal

i. The number of PERB decisions upheld on appeal;

Response:

- i. FY17:
 - D.C. Superior Court – 7 cases
 - D.C. Court of Appeals – 1 case
- ii. FY18:
 - D.C. Superior Court – 8 cases
 - D.C. Court of Appeals – 1 case
- iii. FY19 Q1:
 - D.C. Superior Court – 3 cases

j. A narrative description explaining each decision that was reversed or remanded along with a copy of any opinion issued with the remand or reversal.

Response:

- i. FY17: In *American Federation of Government Employees v. Public Employee Relations Board*, 2016 CA 4861 (D.C. Superior Court April 14, 2017), the court remanded PERB Case 13-U-07. PERB requested a voluntary remand and the court granted the request.
- ii. FY18: In *District of Department of General Services v. Public Employee Relations Board*, No. 2016 CA 006901 P(MPA) (D.C. Superior Court October 3, 2017), the court remanded the Board's decision in PERB Case

- 14-UM-02. The court directed the Board to consider the unit modification proposed by the agency.
- iii. FY18: In *District of Columbia Metropolitan Police Department v. Public Employee Relations Board*, No. 2016 CA 9253 (D.C. Superior Court Feb. 9, 2017), the court reversed the Board's decision in PERB Case 16-A-18. The court reinstated MPD's decision to terminate a police officer after concluding that the record showed a criminal investigation, tolling the statute which required disciplinary actions to occur within a 90-day period.
 - iv. In FY19: In *District of Columbia Metropolitan Police Department v. Public Employee Relations Board*, 2016 CA 008659 P(MPA) (D.C. Superior Court October 23, 2018), the court reversed the Board's decision in PERB Case 15-A-13, without reaching the merits, after determining that the arbitrator lacked jurisdiction to hear an appeal.

See Attachment M.

33. Please list the statutory deadlines PERB must meet for each step of its process, the average time it took to complete that step, the number of cases that reached that step within the deadline, and the number that did not. Please explain any steps that were not completed within statutory deadlines.

Response:

- i. Pursuant to D.C. Official Code §1-605.04 "The Board shall cause a copy of each order, decision, or opinion rendered by it to be published in the District of Columbia Register within 60 days of its issuance." The Board complies with this deadline.
- ii. Pursuant to D.C. Official Code §1-617.10(d)-(e) The Board shall certify the results of each election within 10 working days after the final tally of votes if no objection to the election is filed. The Board shall hold a hearing on the matter within 2 weeks after the date of receipt of an objection, unless the Board determines that the allegations within the objection did not affect the outcome of the election. The Board complies with this deadline.
- iii. Pursuant to D.C. Official Code § 1-617.14 "[a]ll decisions of the Board shall be rendered within a reasonable period of time, and in no event later than 120 days after the matter is submitted or referred to it for a decision." The District of Columbia Court of Appeals has interpreted the language of the statute as directory in *Brown v. Public Employee Relations Board*, 19 A. 3d. 351, 357 (2011). The Board's goal is to render a decision within 120 days after a matter has been submitted to the agenda for the Board's consideration at a meeting. The Board issues all decisions within that timeframe.

34. Please provide a list of each training that PERB provided to members of public unions or agency officials in FY18 and FY19 to date, including information about the topic, agencies in attendance, and the number of attendees. Does PERB intend to continue its training programs in FY19? How many trainings are planned for the remainder of FY19?

Response:

FY18 Trainings

Date	Training Topic	Attendees	Agencies Represented
Oct 10-2017	Second Tuesdays Training Series: Employee, Union, and Management Rights and Restrictions	28	DBH; DCPS; DDOT; DDS; DHCF; DISB; DOC; DYRS; MPD; OUC
Nov 14-2017	Second Tuesdays Training Series: Appropriate Bargaining Units and Elections at PERB	25	DBH; DFS; DHCF; DHS; DISB; DYRS; EOM; FEMS; MPD; OLRCB
Dec 12-2017	Second Tuesdays Training Series: Negotiability Appeals	26	DBH; DCRA; DHCF; DOES; WASA
Jan 09-2018	Second Tuesdays Training Series: Duty of Fair Representation and Standards of Conduct	14	DBH; DHS; DISB
Feb 13-2018	Second Tuesdays Training Series: PERB and Arbitration	14	DBH; DFS; DISB; DYRS; FEMS; WASA
Mar 13-2018	Second Tuesdays Training Series: Direct Dealing, Weingarten Doctrine, and Who is a formal union representative	21	DBH; DHCF; DISB; DOC; FEMS; WASA
Apr 10-2018	Second Tuesdays Training Series: Management Rights, Impacts and Implementation Bargaining, The Duty to Supply Information, and Impasse	31	DBH; DCRA; DHS; DISB; DPR; DYRS; EOM; FEMS; MPD; OAH; WASA
May 04-2018	Agency Specific Training: (4 hrs.) The Duty to Bargain, The Duty to Supply Information, and Weingarten Doctrine	10	MPD- Commanders, Inspectors, and Asst. Chief
May 08-2018	Second Tuesdays Training Series: Ethics and Civility of Labor Relations	12	DBH; DHS; FEMS; OLRCB
May 18-2018	Agency Specific Training: (4 hrs.) The Duty to Bargain, The Duty to Supply Information, and Weingarten Doctrine	16	MPD- Commanders, Inspectors, and Asst. Chief, HR Dir., Parole Dir.
May 21-2018	Agency Specific Training: (4 hrs.) The Duty to Bargain, The Duty to Supply Information, and Weingarten Doctrine	7	MPD- Commander, Inspectors, and Asst. Chief
May 22-2018	Agency Specific Training: (4 hrs.) The Duty to Bargain, The Duty to Supply Information, and Weingarten Doctrine	20	OTR- Real Property Tax Administration
Jun 05-2018	Agency Specific Training: (4 hrs.) The Duty to Bargain, The Duty to Supply Information, and Weingarten Doctrine	22	OTR- Audit Division

FY19 Trainings

Date	Training Topic	Attendees	Agencies Represented
Nov 14-2018	Agency Specific Training: (4 hrs.) The Duty to Bargain, The Duty to Supply Information, and Weingarten Doctrine	50	OTR- Management
Jan 08-2019	Second Tuesday Training Series: Arbitration Preparation	28	DBH; DCRA; DHS; DOC; DYRS; EOM; MPD; OLRCB; OUC
Feb 12-2019	Second Tuesday Training Series: Interviews and Investigations: Weingarten, Garrity, and Kalkines	19	DBH; DDOT; DFS; DHCF; DHS; EOM; FEMS; MPD; OUC; WASA
Does PERB intend to continue its training programs in FY19?			Yes
How many trainings are planned for the remainder of FY19?			5

V. Agency Operations and Disputes

35. Please list in chronological order any **grievances filed by labor unions** against the agency or any employee of the agency in FY17, FY18, or FY19, to date. Include on the list any earlier grievance that is still pending in any forum. Also include any grievances filed by unions about a current employee of the agency that is related to a matter that arose at previous District government employment of the employee at another agency. For each grievance:

Response:

None.

36. Please list in chronological order any other (non-union) **grievances or complaints against or regarding the agency or any of its personnel, filed by any District government employee**, that were filed or pending in FY18 or FY19. Include complaints filed in any forum, including with other District agencies; complaints on any matter, including human resources, personnel, sexual harassment, financial, or other matters; and complaints filed against a current agency employee related to their employment at the agency, or related to any previous employment at another District agency. Include on the list any earlier grievance that is still pending in any forum, including review by another District agency. For each grievance or complaint:

Response:

None.

37. Please list in chronological order all **administrative grievances or complaints filed by parties outside District government** against the agency regarding services provided by or actions of the agency or any employee of the agency in FY2018 or FY2019, to date. Include on the chronological list any earlier grievance that is still pending in any forum.

Response:

None.

38. Please list all **lawsuits** that name or are concerned with the agency, division, or employee of the agency (related to the employee's work) as a party, which are pending, or which concluded in FY2018 or FY2019, to date.

Response:

Cox v. DC, DC Superior Court, Docket No. 2016 CA 4990 B. Status- Closed. This is a workplace discrimination action filed by a former term employee whose employment term ended and was not renewed.

39. Please list all **settlements** entered into by the agency or by the District on behalf of the agency in FY2018 or FY2019, to date, including any covered by D.C. Code § 2-402(a)(3), which requires the Mayor to pay certain settlements from agency operating budgets if the settlement is less than \$10,000 or results from an incident within the last two years. For each, provide

Response:

By information and belief, the *Cox* matter has been settled. According to the D.C. Superior Court website the matter was dismissed with prejudice pursuant to an agreement between the parties. Also, no funds from the agency's operating budget were used to pay the settlement.

40. Does your agency prepare a **legislative agenda**? If so, please attach a copy. Please discuss any legislation your agency plans to submit to the Council in FY2019 or FY2020.

Response:

No

41. Please identify any **recommendations for ways the Council could facilitate or improve your agency's operations.**

Response:

There are none at this time.

Public Employee Relations Board FY2018

▼ FY2018 Performance Accountability Report

The Performance Accountability Report (PAR) measures each agency's performance for the fiscal year against the agency's performance plan and includes major accomplishments, updates on initiatives, and key performance indicators (KPIs).

▼ Mission

The District of Columbia Public Employee Relations Board (hereafter, "PERB") is an impartial, quasi-judicial, independent agency empowered with the exclusive jurisdiction to resolve labor-management disputes.

▼ Summary of Services

PERB determines appropriate compensation and non-compensation bargaining units. PERB also certifies, decertifies, amends, clarifies and modifies labor organizations as exclusive bargaining representatives; facilitates and reviews election procedures and results concerning the selection of labor organizations as the exclusive bargaining representative; investigates and adjudicates unfair labor practices and standards of conduct complaints; reviews appeals of grievance arbitration awards; determines impasse status of collective bargaining between District government agencies and District government employee unions; facilitates Impasse arbitration bargaining between District government agencies and District government employee unions; determines negotiability of proposals submitted during collective bargaining contract negotiations between District government agencies and District government employee unions; mediates disputes submitted to PERB; issues subpoenas and conducts hearings; and adopts rules and regulations for conducting PERB business.

▼ FY18 Top Accomplishments

What is the accomplishment that your agency wants to highlight?	How did this accomplishment impact residents of DC?	How did this accomplishment impact your agency?
An accomplishment by PERB for Fiscal Year 2018 is the replacement of our online case database on the public facing website.	This accomplishment directly impacts users ability to search for PERB opinions and decisions for closed and published cases.	This accomplishment impacts PERB staff by reducing the time utilized to research case decisions for the public. The development of the new platform will eliminate the issues with broken links and inactive pages that users were experiencing prior to the upgrade.
An accomplishment by PERB for Fiscal Year 2018 is the reduction of the backlog cases from Fiscal Year 2008 to Fiscal Year 2015. PERB started the Fiscal Year with 14 open backlog cases and ended the Fiscal Year with 1 open backlog case.	This accomplishment impacts DC residents by increasing the time PERB staff has to invest in new cases.	This accomplishment impacts the agency by reducing the backlog case list thus allowing PERB staff to focus on the timely completion for new cases.
An accomplishment by PERB for Fiscal Year 2018 is the fulfillment of 14 training sessions. These include 8 2nd Tuesdays at PERB and 6 agency specific training sessions.	This accomplishment impacts DC residents by expanding the Labor Relations knowledge with DC Government management and Union Representatives. Employees attending these sessions will learn how to effectively and efficiently file cases with PERB and understand the Labor Relation laws and timelines. This accomplishment also reduces the number of deficient case filings.	This accomplishment impacts the agency by increasing the quality and integrity of new Labor Relations complaints received from DC Government employees, Unions, and Pro-Se individuals.

▼ 2018 Strategic Objectives

Objective Number	Strategic Objective
1	Resolve cases efficiently to provide stable labor relations in District agencies
2	Offer labor relations training and resources to managers and union representatives for a better understanding of their roles and responsibilities
3	Assist parties to reach mutually agreed resolutions of labor disputes to promote harmony between unions and District agencies

▼ 2018 Key Performance Indicators

Measure	Freq	Target	Q1	Q2	Q3	Q4	FY2018	KPI Status	Explanation
1 - Resolve cases efficiently to provide stable labor relations in District agencies (9 Measures)									

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OCA: District Performance P... -

Measure	Freq	Target	Q1	Q2	Q3	Q4	FY2018	KPI Status	Explanation
Percentage of disposition of cases by Board Decisions	Annually	50%	Annual Measure	Annual Measure	Annual Measure	Annual Measure	46.8%	Nearly Met	This KPI was not met due to the large number of Voluntary Withdrawals that were experienced with our cases for Fiscal Year 2018.
Percent of FY '10- FY '17 Unfair Labor Practice and Standard Of Conduct cases resolved	Annually	75%	Annual Measure	Annual Measure	Annual Measure	Annual Measure	71.8%	Nearly Met	The reason why this KPI was not met is due to the difficulty PERB experienced in making attempts of scheduling hearing and mediation for these past cases. Due to schedule conflicts, post-postponements, and change of representation, PERB was not able to meet the KPI target.
Resolve all FY '08-FY '13 Unfair Labor Practice and Standard of Conduct cases	Annually	100%	Annual Measure	Annual Measure	Annual Measure	Annual Measure	50%	Unmet	The reason why this KPI was not met is due to one FY10 case that is continuing to work to reach an agreement.
Percentage of timely disposition of FY '18 Unfair Labor Practice and Standard of Conduct cases by decision and order, withdrawal, dismissal or settlement	Annually	50%	Annual Measure	Annual Measure	Annual Measure	Annual Measure	64.9%	Met	
Percentage of timely disposition of FY '18 Representation cases	Annually	50%	Annual Measure	Annual Measure	Annual Measure	Annual Measure	100%	Met	
Percentage of timely disposition of FY '18 Negotiability Appeal cases	Annually	50%	Annual Measure	Annual Measure	Annual Measure	Annual Measure	50%	Met	
Percentage of timely disposition of FY '18 Arbitration Review Requests	Annually	50%	Annual Measure	Annual Measure	Annual Measure	Annual Measure	52.6%	Met	
Percentage of timely disposition of FY '18 Compensation Negotiation Impasse Cases	Annually	50%	Annual Measure	Annual Measure	Annual Measure	Annual Measure	60%	Met	
Percentage of timely disposition FY '18 Non-compensation Negotiation Impasse cases	Annually	50%	Annual Measure	Annual Measure	Annual Measure	Annual Measure	100%	Met	
2 - Offer labor relations training and resources to managers and union representatives for a better understanding of their roles and responsibilities (2 Measures)									
Percent of training, outreach and facilitation activities conducted	Annually	100%	Annual Measure	Annual Measure	Annual Measure	Annual Measure	100%	Met	
Percentage of participants involved in training, outreach and facilitation activities	Annually	20%	Annual Measure	Annual Measure	Annual Measure	Annual Measure	22.5%	Met	
3 - Assist parties to reach mutually agreed resolutions of labor disputes to promote harmony between unions and District agencies (2 Measures)									
Percentage of cases settled in mediation	Annually	25%	Annual Measure	Annual Measure	Annual Measure	Annual Measure	8.5%	Unmet	This KPI was unmet due to the large number of voluntary withdrawals and Board Decisions.
Percentage of FY '18 ULP and SOC cases sent to mediation within 30 days of the filing of a response	Annually	New Measure	Annual Measure	Annual Measure	Annual Measure	Annual Measure	100%	No Target Set	

**We've revisited a project to standardize District wide measures for the Objective "Create and maintain a highly efficient, transparent and responsive District government." New measures will be tracked in FY18 and FY19 and published starting in the FY19 Performance Plan.

2018 Workload Measures

Measure	Freq	Q1	Q2	Q3	Q4	FY 2018
1 - Conduct Hearings (1 Measure)						
Number of Unfair Labor Practice and Standard of Conduct Cases Filed	Annually	Annual Measure	Annual Measure	Annual Measure	Annual Measure	37
1 - Decisions and Orders (18 Measures)						
Number of Cases Closed by Board Decision	Annually	Annual Measure	Annual Measure	Annual Measure	Annual Measure	44
Total Number of Cases Filed with PERB	Annually	Annual Measure	Annual Measure	Annual Measure	Annual Measure	81
Number of Arbitration Review Requests filed	Annually	Annual Measure	Annual Measure	Annual Measure	Annual Measure	19
Number of FY '18 Arbitration Review Requests resolved within 120 days of filing	Annually	Annual Measure	Annual Measure	Annual Measure	Annual Measure	10
Number of FY '18 Unfair Labor Practice and Standard of Conduct Cases resolved within 300 days of filing	Annually	Annual Measure	Annual Measure	Annual Measure	Annual Measure	24
Number of FY '18 Unfair Labor Practice and Standard of Conduct Cases resolved	Annually	Annual Measure	Annual Measure	Annual Measure	Annual Measure	24
Number of FY '18 Arbitration Review Requests Resolved	Annually	Annual Measure	Annual Measure	Annual Measure	Annual Measure	10
Number of cases closed in FY '18	Annually	Annual Measure	Annual Measure	Annual Measure	Annual Measure	94
Number of FY '10 - FY '17 Unfair Labor and Standard of Conduct cases Resolved	Annually	Annual Measure	Annual Measure	Annual Measure	Annual Measure	28
Number of FY '10 - FY '17 Unfair Labor and Standard of Conduct cases open	Annually	Annual Measure	Annual Measure	Annual Measure	Annual Measure	15
Number of FY '18 Representation cases closed	Annually	Annual Measure	Annual Measure	Annual Measure	Annual Measure	1
Number of FY '18 Representation cases resolved through withdrawal, election, issuance of decision and order within 240 days of the filing date	Annually	Annual Measure	Annual Measure	Annual Measure	Annual Measure	1
Number of FY '18 Negotiability cases closed	Annually	Annual Measure	Annual Measure	Annual Measure	Annual Measure	5
Number of FY '18 Negotiability cases resolved within 120 days of the filing date	Annually	Annual Measure	Annual Measure	Annual Measure	Annual Measure	4
Number of FY '18 Non-compensation Negotiation Impasse cases resolved within 240 days of notice filing	Annually	Annual Measure	Annual Measure	Annual Measure	Annual Measure	1
Number of FY '18 Non-compensation Negotiation Impasse cases closed	Annually	Annual Measure	Annual Measure	Annual Measure	Annual Measure	1
Number of FY '18 Compensation Negotiation Impasse cases resolved within 240 days of notice filing	Annually	Annual Measure	Annual Measure	Annual Measure	Annual Measure	3
Number of FY '18 Compensation Negotiation Impasse cases closed	Annually	Annual Measure	Annual Measure	Annual Measure	Annual Measure	3
2 - PERB Labor Relations Institute (4 Measures)						
Second Tuesdays at PERB-Employee Training	Quarterly	4	3	1	0	8
Number of participants involved in training, outreach and facilitation activities	Annually	Annual Measure	Annual Measure	Annual Measure	Annual Measure	80
Number of training sessions planned for FY '18	Annually	Annual Measure	Annual Measure	Annual Measure	Annual Measure	8
Number of training participants invited	Annually	Annual Measure	Annual Measure	Annual Measure	Annual Measure	356
3 - Mediation (2 Measures)						
Number of cases Settled/Withdrawn in mediation	Annually	Annual Measure	Annual Measure	Annual Measure	Annual Measure	41
Number of cases sent to mediation	Annually	Annual Measure	Annual Measure	Annual Measure	Annual Measure	37

2018 Strategic Initiatives

Title	Description	Complete to Date	Status Update	Explanation
AGENCY TRAINING (1 Strategic Initiative)				

1/16/2019

OCA: District Performance P... -

Title	Description	Complete to Date	Status Update	Explanation
Educational Resources	In FY 18 PERB will provide at least eight 2nd Tuesday at PERB training sessions. PERB will also conduct at least two special training sessions for individual agencies as needed to the District's managers, union representatives, and employees in an effort to encourage a collegial labor relations environment.	Complete	In the quarter three, PERB has held an additional two 2nd Tuesday at PERB training sessions, bringing the total to 8. We have held an additional five (5) Labor Training Sessions with the Metropolitan Police Department, Office of Tax and Revenue and the Real Property Tax Administration bringing the total to six (6). We have met the annual goal for 2nd Tuesday at PERB training sessions. We have exceeded the annual goal for the special PERB training sessions for individual agencies.	

Public Employee Relations Board FY2019

Agency Public Employee Relations Board

Agency Acronym PERB

Agency Code CGO

To edit agency and POC information press your agency name (underlined and in blue above).

Agency Performance POCs Clarene (OCFO) Martin; lindsey.maxwell@dc.gov; Najibah (PERB) Almahdi

Agency Budget POCs Clarene (OCFO) Martin; lindsey.maxwell@dc.gov

Fiscal Year 2019

Agency's Operating Budget

[Lookup Your Agency's Operating Budget](#)

2019 Objectives

Strategic Objectives	Objective Number	Strategic Objective
	1	Resolve cases efficiently to provide stable labor relations in District agencies.
	2	Assist parties to reach mutually agreed resolutions of labor disputes to promote harmony between unions and District agencies
	3	Provide training sessions and resources that promote better understanding and knowledge of labor relations and various responsibilities to District government managers and union representatives.

Add Strategic Objective

2019 Key Performance Indicators

Key Performance Indicators	Measure	New Measure/Benchmark Year	Directionality	FY 2014 Actual	FY 2015 Target	FY 2015 Actual	FY 2016 Target	FY 2016 Actual	FY 2017 Target	FY 2017 Actual	FY 2018 Target	FY 2018 Actual	FY 2019 Target	FY 2019 Quarter 1
1 - Resolve cases efficiently to provide stable labor relations in District agencies. (7 Measures)														
	Percent of disposition of Unfair Labor Practice and Standard of Conduct cases by decision and order, withdrawal, dismissal or settlement within 300 days of filing in Fiscal Year	<input type="checkbox"/>	Up is Better	Not available	Not available	Not Available	Not Available	Not Available	50%	100%	50%	64.9%	50%	No applicable incidents
	Percent of disposition of Representation cases in Fiscal Year	✓	Up is Better	Not available	Not available	Not Available	Not Available	Not Available	Not Available	Not Available	Not Available	100%	50%	No applicable incidents
	Percent of disposition of Negotiability Appeal cases in Fiscal Year	✓	Up is Better	Not available	Not available	Not Available	Not Available	Not Available	Not Available	Not Available	Not Available	50%	50%	No applicable incidents
	Percent of Arbitration Review Requests decided in Fiscal Year	✓	Up is Better	Not available	Not available	Not Available	Not Available	Not Available	Not Available	Not Available	Not Available	52.6%	50%	No applicable incidents
	Percent of disposition of cases by Board Decision in Fiscal Year	✓	Up is Better	Not available	Not available	Not Available	Not Available	Not Available	Not Available	Not Available	50%	Not Available	30%	No applicable incidents
	Percent of Compensation Negotiation Impasse cases reviewed, mediated, settled or sent to arbitration panel in Fiscal Year	✓	Up is Better	Not available	Not available	Not Available	Not Available	Not Available	Not Available	Not Available	Not Available	60%	50%	No applicable incidents
	Percent of Non-Compensation Negotiation Impasse cases resolved in Fiscal Year	✓	Up is Better	Not available	Not available	Not Available	Not Available	Not Available	Not Available	Not Available	Not Available	100%	50%	No applicable incidents
2 - Assist parties to reach mutually agreed resolutions of labor disputes to promote harmony between unions and District agencies (2 Measures)														
	Percent of cases settled in mediation in Fiscal Year	✓	Up is Better	Not available	Not available	Not Available	Not Available	Not Available	Not Available	Not Available	Not Available	8.5%	10%	Annual Measure
	Percent of Unfair Labor Practice and Standard of Conduct cases sent to mediation within 45 days of the filing of a response in Fiscal Year	✓	Up is Better	Not available	Not available	Not Available	Not Available	Not Available	Not Available	Not Available	Not Available	100%	50%	Annual Measure
3 - Provide training sessions and resources that promote better understanding and knowledge of labor relations and various responsibilities to District government managers and union representatives. (1 Measure)														

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OCA: District Performance P...

Measure	New Measure/ Benchmark Year	Directionality	FY 2014 Actual	FY 2015 Target	FY 2015 Actual	FY 2016 Target	FY 2016 Actual	FY 2017 Target	FY 2017 Actual	FY 2018 Target	FY 2018 Actual	FY 2019 Target	FY 2019 Quarter 1
Percent of training, outreach and facilitation activities conducted in Fiscal Year	<input type="checkbox"/>	Up is Better	Not available	Not available	100%	100%	100%	100%	100%	100%	100%	25%	Annual Measure

2019 Operations

Operations	Operations Header	Operations Title	Operations Description	Type of Operations
1 - Resolve cases efficiently to provide stable labor relations in District agencies. (4 Activities)				
PERFORMANCE MANAGEMENT	Decisions and Orders		Drafting opinions for Board approval	Daily Service
LEGAL SUPPORT	Conduct Hearings		Conduct Hearings before a Hearing Examiner to gather facts for determining whether an Unfair Labor Practice has been committed	Daily Service
INFORMATION TECHNOLOGY	Information Technology		PERB will start the process of creating a free e-filing system for parties to improve the filing and handling process of cases.	Daily Service
INFORMATION TECHNOLOGY	Information Technology		PERB will seek to modernize the Information Technology Infrastructure of the office.	Key Project
2 - Assist parties to reach mutually agreed resolutions of labor disputes to promote harmony between unions and District agencies (1 Activity)				
LEGAL SUPPORT	Mediation		Dispute resolution that may reduce time and cost traditionally associated with these disputes and identify mutually agreeable solutions	Daily Service
3 - Provide training sessions and resources that promote better understanding and knowledge of labor relations and various responsibilities to District government managers and union representatives. (3 Activities)				
AGENCY TRAINING	PERB Labor Relations Institute		The format to facilitate teaching labor relations to D.C. government managers labor relations specialists and union representative of D.C. government employees	Key Project
PUBLIC EMPLOYEE RELATIONS BOARD	Training Center		PERB will create an in-house training center to further promote better understanding of labor relations and responsibilities to DC government managers and union representatives.	Key Project
Training	Trainings		PERB will provide training sessions to promote better understanding and knowledge of labor relations and responsibilities to DC government managers and union representatives.	Daily Service

2019 Workload Measures

Workload Measures - Operations	Measure	New Measure/ Benchmark Year	Numerator Title	Units	FY 2014	FY 2015	FY 2016	FY 2017 Actual	FY 2018 Actual	FY 2019 Quarter 1
1 - Conduct Hearings (2 Measures)										
	Number of Unfair Labor Practice and Standard of Conduct hearings scheduled within 30 days after mediation in Fiscal Year	<input checked="" type="checkbox"/>	Number of Unfair Labor Practice and Standard of Conduct hearings scheduled within 30 days after mediation in Fiscal Year	Number of hearings scheduled			4	0	Not Available	7
	Number of Unfair Labor Practice and Standard of Conduct Cases filed in Fiscal Year	<input type="checkbox"/>	Number of Unfair Labor Practice and Standard of Conduct Cases Filed	Number of cases			38	35	37	5
1 - Decisions and Orders (22 Measures)										
	Number of total cases filed with PERB in Fiscal Year	<input type="checkbox"/>	Total Number of Cases Filed with PERB in Fiscal Year	Number of Cases			81	61	81	9
	Number of total cases closed in Fiscal Year	<input type="checkbox"/>	Number of total cases closed in Fiscal Year	Number of cases			38	47.1	44	11
	Number of Arbitration Review Requests filed with PERB in Fiscal Year	<input type="checkbox"/>	Number of Arbitration Review Requests filed in Fiscal Year	Number of requests filed			16	7	19	1
	Number of Arbitration Review Requests resolved within 120 days of filing in Fiscal Year	<input checked="" type="checkbox"/>	Number of Arbitration Review Requests resolved within 120 days of filing in Fiscal Year	Numerical			Not Available	Not Available	Not Available	No applicable incidents
	Number of Unfair Labor Practice and Standard of Conduct cases resolved within 300 days of filing in Fiscal Year	<input checked="" type="checkbox"/>	Number of Unfair Labor Practice and Standard of Conduct cases resolved within 300 days of filing in Fiscal Year	Number of cases resolved			Not Available	Not Available	24	No applicable incidents
	Number of Unfair Labor Practice and Standard of Conduct cases closed in Fiscal Year	<input checked="" type="checkbox"/>	Number of Unfair Labor Practice and Standard of Conduct cases closed in Fiscal Year	Number of cases resolved			Not Available	Not Available	24	9
	Number of FY10-FY19 Unfair Labor and Standard of Conduct cases resolved	<input checked="" type="checkbox"/>	Number of FY10-FY19 Unfair Labor and Standard of Conduct cases resolved	Number of cases resolved			Not Available	Not Available	28	9
	Number of FY10-FY19 Unfair Labor and Standard of Conduct cases open	<input checked="" type="checkbox"/>	Number of FY10-FY19 Unfair Labor and Standard of Conduct cases open	Number of backlog cases open			Not Available	Not Available	15	22
	Number of Representation cases filed with PERB in Fiscal Year	<input checked="" type="checkbox"/>	Number of Representation cases filed with PERB in Fiscal Year	Numerical			Not Available	Not Available	Not Available	0
	Number of Representation cases closed in Fiscal Year	<input checked="" type="checkbox"/>	Number of Representation cases closed in Fiscal Year	Number of cases closed			Not Available	Not Available	1	0
	Number of Representation cases resolved through withdrawal, election, or issuance of decision and order within 240 days of the filing date in Fiscal Year	<input checked="" type="checkbox"/>	Number of Representation cases resolved through withdrawal, election, or issuance of decision and order within 240 days of the filing date in Fiscal Year	Number of cases resolved			Not Available	Not Available	1	No applicable incidents
	Number of Negotiability cases filed with PERB in Fiscal Year	<input checked="" type="checkbox"/>	Number of Negotiability cases filed with PERB in Fiscal Year	Number of cases closed			Not Available	Not Available	5	0
	Number of Negotiability cases closed in Fiscal Year	<input checked="" type="checkbox"/>	Number of Negotiability cases closed in Fiscal Year	Numerical			Not Available	Not Available	Not Available	2
	Number of Negotiability cases resolved within 120 days of the filing date in Fiscal Year	<input checked="" type="checkbox"/>	Number of Negotiability cases resolved within 120 days of the filing date in Fiscal Year	Number of cases resolved			Not Available	Not Available	4	1
	Number of Non-Compensation Negotiation Impasse cases filed with PERB in Fiscal Year	<input checked="" type="checkbox"/>	Number of Non-Compensation Negotiation Impasse cases filed with PERB in Fiscal Year	Numerical			Not Available	Not Available	Not Available	0

Measure	New Measure/ Benchmark Year	Numerator Title	Units	FY 2014	FY 2015	FY 2016	FY 2017 Actual	FY 2018 Actual	FY 2019 Quarter 1
Number of Non-Compensation Negotiation Impasse cases closed in Fiscal Year	✓	Number of Non-Compensation Negotiation Impasse cases closed in Fiscal Year	Number of cases closed			Not Available	Not Available	1	0
Number of Non-Compensation Negotiation Impasse cases resolved within 240 days of notice filing in Fiscal Year	✓	Number of Non-Compensation Negotiation Impasse cases resolved within 240 days of notice filing in Fiscal Year	Number of cases resolved			Not Available	Not Available	1	0
Number of Compensation Negotiation Impasse cases filed with PERB in Fiscal Year	✓	Number of Compensation Negotiation Impasse cases filed with PERB in Fiscal Year	Numerical			Not Available	Not Available	Not Available	0
Number of Compensation Negotiation Impasse cases closed in Fiscal Year	✓	Number of Compensation Negotiation Impasse cases closed in Fiscal Year	Number of cases closed			Not Available	Not Available	3	0
Number of Compensation Negotiation Impasse cases resolved within 240 days of notice filing in Fiscal Year	✓	Number of Compensation Negotiation Impasse cases resolved within 240 days of notice filing in Fiscal Year	Number of cases resolved			Not Available	Not Available	3	0
Number of cases that held a hearing in Fiscal Year	✓	Number of cases that held a hearing in Fiscal Year	Numerical			Not Available	Not Available	Not Available	7
Number of days from the conclusion of hearing to Board Decision in Fiscal Year	✓	Number of days from the conclusion of hearing to Board Decision in Fiscal Year	Number of days			Not Available	Not Available	Not Available	252.5
2 - Mediation (3 Measures)									
Number of cases Settled/Withdrawn in mediation	<input type="checkbox"/>	Number of cases Settled/Withdrawn in mediation	Number of Cases Settled/Withdrawn			62	52	41	6
Number of meditations held within 45 days of filing date in Fiscal Year	✓	Number of mediations held within 45 days of filing date	Number of Cases			Not Available	Not Available	Not Available	5
Number of cases sent to mediation in Fiscal Year	✓	Number of cases sent to mediation	Number of cases sent to mediation			Not Available	Not Available	37	5
3 - PERB Labor Relations Institute (2 Measures)									
Number of completed Second Tuesdays at PERB-Employee Training	<input type="checkbox"/>	Number of Trainings	Number of Trainings			8	8	8	0
Number of participants who completed training, outreach and facilitation activities	<input type="checkbox"/>	Number of Participants	Number of Participants			60	192	80	Annual Measure

2019 Initiatives

Strategic Initiatives	Strategic Initiative Title	Strategic Initiative Description	Proposed Completion Date	Add Initiative Update
Information Technology (2 Strategic initiatives)				
Information Technology	In Fiscal Year 19, PERB will seek to modernize its Information Technology infrastructure through upgrading and/or replacing technological equipment including but not limited to computers, laptops, tablets, telephones, servers, routes, data storage, and other communication devices.		09-30-2019	
E-Filing System	In Fiscal Year 19, PERB will seek to start the process of developing an e-filing system with the help of OCTO. This new system will eliminate the filing cost of our current filing system. PERB will work alongside OCTO in the various steps of the creation, budgeting, and planning for this new e-filing system which is set to be finalized by the end of Fiscal Year 2020.		09-30-2020	
Training Center (1 Strategic Initiative)				
Construction	In Fiscal Year 19, PERB will seek to assemble an in-house training center to offer more training sessions and more training topics in regard to DC labor relation laws and practices. PERB will undergo office construction to create the in-house training center, this is set to be finalized by the end of Fiscal Year 2020.		09-30-2020	
Trainings (2 Strategic initiatives)				
Educational Resource	In Fiscal Year 19, PERB will provide eight 2nd Tuesday at PERB training sessions on eight different labor relations topics. These trainings will be offered to District Government Managers, Union Representatives, and other DC employees to improve the city-wide knowledge of labor relation laws and practices.		09-30-2019	
Educational Resource	In Fiscal Year 19, PERB will provide at least two agency specific training sessions to provide labor relations training to all managers in a specific agency.		09-30-2019	

2019 Initiative Updates

Initiative Updates	Strategic Initiative Title	Initiative Status Update	% Complete to date	Confidence in completion by end of fiscal year (9/30)?	Status of Impact	Explanation of Impact	Supporting Data	FY19 Reporting Quarter
Construction (1 Initiative Update)								
Construction	Construction inside the office has begun.	0-24%	Medium	Incremental	This construction will improve the office space and lead us towards the goal of creating an in-house training center.			Q1
E-Filing System (1 Initiative Update)								
E-Filing System	Due date for this is 9/30/20, we have not started process for e-filing yet.	0-24%	Medium	None	Since no progress has been made, no impact is reflected.			Q1
Educational Resource (2 Initiative Updates)								
Educational Resource	PERB has completed one agency specific training session in FY 19.	50-74%	High	Transformative	The impact of holding agency specific training is highly important to PERB, with these training sessions we can further expand the knowledge of employee relations.			Q1
Educational Resource	PERB has held one 2nd Tuesday Training for Fiscal Year 19.	0-24%	Medium	Incremental	We have started with one training to reach our annual goal.			Q1
Information Technology (1 Initiative Update)								
Information Technology	PERB continued to updated Microsoft Office and Time Matters Software for the office.	25-49%	High	Incremental	The impact is incremental to the office as employees heavily rely on both software daily.			Q1

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Internal: Unfinished 2018 Initiatives

This year, the OCA is requesting updates on any unfinished initiatives from FY18. Updates will not be published, but will be used to report progress to the City Administrator and the Mayor as needed.

Strategic Initiatives	Title	Description	Complete to Date	Status Update	Explanation	Anticipated Completion Date	Add Initiative Update - Rolled Over Initiatives	Needs Initiative Update - Rolled Over Initiatives - Notification
No strategic initiatives found								

Int: Unfinished 2018 Initiative Updates

Strategic Initiative Title	Anticipated completion date	New initiative created for FY19	No Longer an Initiative	Initiative Status Update	% Complete to date	Confidence in completion by anticipated completion date?	Status of Impact	Explanation of Impact	Supporting Data	FY19 Reporting Quarter
No initiative updates found										

2019 Capital Projects

Capital projects - performance plans links	Project Number	Project Title	Owner Agency Acronym	Implementing Agency Acronym	Milestone Description	Fiscal Year Allotment
No capital projects - performance plans links found						

[Operating Budget](#)

Administrative Information

FY Performance Plan Public Employee Relations Board FY2019 Record ID# 639

Performance Plan ID 639

Created on Dec. 26, 2017 at 4:23 PM (EST). Last updated by [Katz, Lia \(EOM\)](#) on June 18, 2018 at 1:51 PM (EDT). Owned by [Katz, Lia \(EOM\)](#).

Agency Name

**Annual Freedom of Information Act Report for Fiscal Year 2017
October 1, 2016 through September 30, 2017**

FOIA Officer Reporting _____

PROCESSING OF FOIA REQUESTS

1. Number of FOIA requests received during reporting period
2. Number of FOIA requests pending on October 1, 2016.....
3. Number of FOIA requests pending on September 30, 2017.....
4. The average number of days unfilled requests have been pending before each public body as of September 30, 2017

DISPOSITION OF FOIA REQUESTS

5. Number of requests granted, in whole.....
6. Number of requests granted, in part, denied, in part.....
7. Number of requests denied, in whole.....
8. Number of requests withdrawn.....
9. Number of requests referred or forwarded to other public bodies.....
10. Other disposition

NUMBER OF REQUESTS THAT RELIED UPON EACH FOIA EXEMPTION
--

11. Exemption 1 - D.C. Official Code § 2-534(a)(1).....
12. Exemption 2 - D.C. Official Code § 2-534(a)(2).....
13. Exemption 3 - D.C. Official Code § 2-534(a)(3)
 - Subcategory (A).....
 - Subcategory (B).....
 - Subcategory (C)
 - Subcategory (D)
 - Subcategory (E)
 - Subcategory (F)
14. Exemption 4 - D.C. Official Code § 2-534(a)(4)
15. Exemption 5 - D.C. Official Code § 2-534(a)(5).....

16. Exemption 6 - D.C. Official Code § 2-534(a)(6)
 Subcategory (A).....
 Subcategory (B).....
17. Exemption 7 - D.C. Official Code § 2-534(a)(7).....
18. Exemption 8 - D.C. Official Code § 2-534(a)(8).....
19. Exemption 9 - D.C. Official Code § 2-534(a)(9).....
20. Exemption 10 - D.C. Official Code § 2-534(a)(10).....
21. Exemption 11 - D.C. Official Code § 2-534(a)(11).....
22. Exemption 12 - D.C. Official Code § 2-534(a)(12).....

TIME-FRAMES FOR PROCESSING FOIA REQUESTS

23. Number of FOIA requests processed within 15 days.....
24. Number of FOIA requests processed between 16 and 25 days.....
25. Number of FOIA requests processed in 26 days or more.....
26. Median number of days to process FOIA Requests.....

RESOURCES ALLOCATED TO PROCESSING FOIA REQUESTS
--

27. Number of staff hours devoted to processing FOIA requests.....
28. Total dollar amount expended by public body for processing FOIA requests.....

FEES FOR PROCESSING FOIA REQUESTS
--

29. Total amount of fees collected by public body.....

PROSECUTIONS PURSUANT TO SECTION 207(d) OF THE D.C. FOIA

30. Number of employees found guilty of a misdemeanor for arbitrarily or capriciously violating any provision of the District of Columbia Freedom of Information Act

QUALITATIVE DESCRIPTION OR SUMMARY STATEMENT

Pursuant to section 208(a)(9) of the D.C. FOIA, provide in the space below or as an attachment, “[a] qualitative description or summary statement, and conclusions drawn from the data regarding compliance [with the provisions of the Act].”

Agency Name

Public Employee Relations Board

**Annual Freedom of Information Act Report for Fiscal Year 2018
October 1, 2017 through September 30, 2018**FOIA Officer Reporting Merlin M. George**PROCESSING OF FOIA REQUESTS**

1. Number of FOIA requests received during reporting period0
2. Number of FOIA requests pending on October 1, 2017.....1
3. Number of FOIA requests pending on September 30, 2018.....0
4. The average number of days unfilled requests have been pending before each public body as of September 30, 2018122

DISPOSITION OF FOIA REQUESTS

5. Number of requests granted, in whole.....0
6. Number of requests granted, in part, denied, in part.....1
7. Number of requests denied, in whole.....0
8. Number of requests withdrawn.....0
9. Number of requests referred or forwarded to other public bodies.....0
10. Other disposition0

NUMBER OF REQUESTS THAT RELIED UPON EACH FOIA EXEMPTION

11. Exemption 1 - D.C. Official Code § 2-534(a)(1).....0
12. Exemption 2 - D.C. Official Code § 2-534(a)(2).....1
13. Exemption 3 - D.C. Official Code § 2-534(a)(3)
 - Subcategory (A).....0
 - Subcategory (B).....0
 - Subcategory (C)0
 - Subcategory (D)0
 - Subcategory (E)0
 - Subcategory (F)0
14. Exemption 4 - D.C. Official Code § 2-534(a)(4)0
15. Exemption 5 - D.C. Official Code § 2-534(a)(5).....0

16. Exemption 6 - D.C. Official Code § 2-534(a)(6)
 Subcategory (A).....0
 Subcategory (B).....0
17. Exemption 7 - D.C. Official Code § 2-534(a)(7).....0
18. Exemption 8 - D.C. Official Code § 2-534(a)(8).....0
19. Exemption 9 - D.C. Official Code § 2-534(a)(9).....0
20. Exemption 10 - D.C. Official Code § 2-534(a)(10).....0
21. Exemption 11 - D.C. Official Code § 2-534(a)(11).....0
22. Exemption 12 - D.C. Official Code § 2-534(a)(12).....0

TIME-FRAMES FOR PROCESSING FOIA REQUESTS

23. Number of FOIA requests processed within 15 days.....0
24. Number of FOIA requests processed between 16 and 25 days.....0
25. Number of FOIA requests processed in 26 days or more.....1
26. Median number of days to process FOIA Requests.....122

RESOURCES ALLOCATED TO PROCESSING FOIA REQUESTS
--

27. Number of staff hours devoted to processing FOIA requests.....2
28. Total dollar amount expended by public body for processing FOIA requests.....\$84

FEES FOR PROCESSING FOIA REQUESTS
--

29. Total amount of fees collected by public body.....0

PROSECUTIONS PURSUANT TO SECTION 207(d) OF THE D.C. FOIA

30. Number of employees found guilty of a misdemeanor for arbitrarily or capriciously violating any provision of the District of Columbia Freedom of Information Act0

QUALITATIVE DESCRIPTION OR SUMMARY STATEMENT

Pursuant to section 208(a)(9) of the D.C. FOIA, provide in the space below or as an attachment, “[a] qualitative description or summary statement, and conclusions drawn from the data regarding compliance [with the provisions of the Act].”

Q13 Budget

PERB BUDGET, FY18 AND FY19, AS OF FEB. 1, 2019 (Q13)										
			FY18 Approved	FY18 Revised	FY18 Expenditures	FY18 Difference between Revised and Expenditures	FY19 approved	FY19 Revised (as of Feb. 1, 2019)	FY19 Q1 expenditures	Explain FY18 over- or under-spending
Agency Management (1000)	Total \$		229228.74	229228.74	217448.08	11780.66	404794.16	404794.16	50515.07	Under-spending
	Federal \$									
	Local \$		229228.74	229228.74	217448.08	11780.66	404794.16	404794.16	50515.07	
	SPR \$									
	ID \$									
	Information Technology (1040)	Total \$	23242.96	23242.96	22597.32	645.64	23146.24	23146.24	731.36	
	Performance Management (1090)	Total \$	205985.78	205985.78	194850.76	11135.02	381647.92	381647.92	49783.71	
Adjudication (2000)	Total \$		1210722.26	1180722.26	1017613.27	163108.99	1103811.04	1103811.04	232987.88	Under-spending
	Federal \$									
	Local \$									
	SPR \$									
	ID \$									
	Legal Support (2001)	Total \$	551031.64	610604.64	489240.41	121364.23	415655.01	415655.01	78906.04	
	Court Appeals (2002)	Total \$	644090.62	534717.62	499872.86	34844.76	672459.31	672459.31	148881.84	
	Public Employee Relations Board (2003)	Total \$	15600	35400	28500	6900	15696.72	15696.72	5200	

PERB INTERAGENCY MOUS, FY18 AND FY19, INCLUDING ANTICIPATED MOUS (Q14)

[illegible]

**MEMORANDUM OF UNDERSTANDING
BETWEEN
PUBLIC EMPLOYEE RELATIONS BOARD
AND
DEPARTMENT OF HUMAN RESOURCES
FOR FISCAL YEAR 2018**

I. INTRODUCTION

This Memorandum of Understanding ("MOU") is entered into between the Public Employee Relations Board ("Buyer Agency") and the Department of Human Resources ("Seller Agency"), collectively the "Parties".

II. LEGAL AUTHORITY FOR MOU

D.C. Official Code § 1-301.01(k) (2014 Repl.), and any other applicable District and federal laws, regulations, and policies.

III. OVERVIEW OF PROGRAM GOALS AND OBJECTIVES

The Mayor has delegated to the Buyer Agency personnel management responsibilities for its day-to-day operations. However, the Buyer Agency lacks human resources processing infrastructure. Accordingly, Buyer Agency has requested that Seller Agency provide its human resources support services.

IV. SCOPE OF SERVICES

Pursuant to the applicable authorities and in the furtherance of the shared goals of the Parties to carry out the purposes of this MOU expeditiously and economically, the Parties hereby agree as follows:

A. RESPONSIBILITIES OF SELLER AGENCY

Pursuant to the provisions of the Comprehensive Merit Personnel Act and the District Personnel Manual, the Seller Agency will provide the following services to the Buyer Agency:

1. Benefits and Retirement Services;
2. Recruitment and Staffing Services;
3. Classification and Compensation Services;

4. Employee Relations Services;
5. Performance Management Services (ePerformance);
6. Policy Development and Interpretation Services; and
7. Learning and Development Services.

B. RESPONSIBILITIES OF BUYER AGENCY

In support of the above services, the Buyer Agency shall:

1. Provide the Seller Agency, or ensure its employees provide, all documentation reasonably necessary to carry out its responsibilities under this Agreement;
2. Ensure that its employees are actively enrolled in Employee Self Service;
3. Designate individuals on Buyer Agency's staff to serve as a Human Resources Authority and Alternate Human Resources Authority (HRA and AHRA, respectively), who will coordinate with Seller Agency personnel to facilitate the agreed services.
4. Coordinate, in good faith, with the Seller Agency before engaging in any corrective or adverse action procedure; non-union dispute resolution or mediation; or non-union grievance process;
5. Ensure that all the Buyer Agency's management level employees are properly trained in performance management concepts and PeopleSoft's ePerformance application. The HRA and AHRA shall be responsible for agency level ePerformance training and administration once they have received initial training from the Seller Agency; and
6. Conform to the Comprehensive Merit Personnel Act, as implemented in the District Personnel Manual and E-DPM Instructions.

V. DURATION OF THIS MOU**A. PERIOD**

The period of this MOU shall be from October 1, 2017 through September 30, 2018, unless terminated in writing by the Parties pursuant to Section XI of this MOU.

VI. FUNDING PROVISIONS**A. COST OF SERVICES**

Total cost for goods and services under this MOU shall not exceed **\$15,000.00** for Fiscal Year 2018. Funding for goods and services shall not exceed the actual cost of the goods and services provided, including labor, materials and overhead.

B. PAYMENT

1. Payment for the goods and services shall be made through an Intra-District advance by Buyer Agency to Seller Agency based on the total amount of this MOU.
2. Buyer Agency shall report all services received under this MOU in its monthly Financial Review Process (RFP) report to the Office of Budget and Planning.
3. Advances to Seller Agency for the services to be performed and goods to be provided shall not exceed the amount of this MOU (\$15,000.00).
4. Seller Agency shall receive the advance and bill Buyer Agency through the Intra-District process only for those goods and services actually provided pursuant to the terms of this MOU. Seller Agency shall notify Buyer Agency within forty-five (45) days of the current fiscal year if it has reason to believe that all of the advance will not be billed during the current fiscal year. Seller Agency shall return any excess advance to Buyer Agency within thirty (30) days of the end of the current fiscal year.

C. ANTI-DEFICIENCY CONSIDERATIONS

The Parties acknowledge and agree that nothing in this MOU creates a financial obligation in anticipation of an appropriation and that all provisions of this MOU, or any subsequent agreement entered into by the Parties pursuant to this MOU, are and shall remain subject to the provisions of (i) the federal Anti-Deficiency Act, 31 U.S.C. §§ 1341, 1342, 1349, 1351, (ii) the District of Columbia Anti-deficiency Act, D.C. Official Code §§ 47-355.01 *et seq.* (2015 Repl.), (iii) D.C. Official Code § 47-105 (2015 Repl.); and (iv) D.C. Official Code § 1-204.46 (2014 Repl. & 2015 Supp.), as the foregoing statutes may be amended from time to time, regardless of whether a particular obligation has been expressly conditioned.

VII. AMENDMENTS AND MODIFICATIONS

This MOU may be amended or modified only upon prior written agreement of the Parties. Amendments or modifications shall be dated and signed by the authorized representatives of the Parties.

VIII. CONSISTENCY WITH LAW

The Parties shall comply with all applicable laws, rules and regulations whether now in effect or subsequently enacted or promulgated, and agree to be governed by the Comprehensive Merit Personnel Act, as implemented by the District Personnel Manual.

IX. COMPLIANCE AND MONITORING

Seller Agency will be subject to scheduled and unscheduled monitoring reviews by the Buyer Agency to ensure compliance with all applicable requirements.

X. RECORDS AND REPORTS

Seller Agency shall maintain records and receipts for the expenditure of all funds provided pursuant to this MOU for a period of no less than three years from the date of expiration or termination of this MOU and, upon the request of the Buyer Agency or any other District of Columbia government agency with legal authority to request review, make these documents available for inspection by duly authorized representatives of Buyer Agency or the relevant District of Columbia government agency in its sole discretion.

XI. TERMINATION

Either Party may terminate this MOU in whole or in part by giving sixty (60) calendar days advance written notice to the other Party. In the event of termination of this MOU, DCHR will return any unused funds after all required fiscal reconciliation, but not later than September 30th of the then current fiscal year.

XII. NOTICES

The following individuals are the contact points for each Party:

CLARENE MARTIN

Public Employee Relations Board
1100 Fourth St SW, Suite 630E
Washington, DC 20024
(202) 727-5403

KENA COFIELD JONES

Associate Director, DCHR
Administration for Recruitment and Classification
441 4th Street NW, Suite 354N
Washington, DC 20001
(202) 442-9667

XIII. PROCUREMENT PRACTICES ACT

If a District of Columbia agency or instrumentality plans to utilize the goods and/or services of an agent, contractor, consultant or other third party to provide any of the goods and/or services under this MOU, then the agency or instrumentality shall abide by the provisions of the District of Columbia Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-351.01, *et seq.* (2016 Repl.) to procure the goods or services.

XIV. RESOLUTION OF DISPUTES

The Directors for the respective agencies, or their designees, shall resolve all disputes and/or adjustments resulting from goods or services provided under this MOU. In the event the Parties are unable to resolve a financial issue, the matter shall be referred, in writing, to the Office of Financial Operations and Systems for final resolution.


XV. CONFIDENTIAL INFORMATION

The Parties to this MOU will use, restrict, safeguard and dispose of all information related to services provided by this MOU in accordance with all relevant federal and local statutes, regulations, and policies. Information received by either Party in the performance of responsibilities associated with the performance of this MOU shall remain the property of the Buyer Agency.

IN WITNESS WHEREOF, the Parties hereto have executed this MOU as follows:

PUBLIC EMPLOYEE RELATIONS BOARD


Clarence Phyllis Martin
Executive Director


Date: October 11, 2017

D.C. DEPARTMENT OF HUMAN RESOURCES


Ventris C. Gibson
Director


Date

ATTACHMENT 1

INTRA DISTRICT STANDARD REQUEST FORM

Government of the District of Columbia

PART I

MOU NUMBER: _____

DATE OF MOU _____

AGENCY: _____

AGENCY CODE _____

NAME OF CONTACT _____

ADDRESS _____

TELEPHONE (202) _____

FAX (202) _____

AUTHORIZING
OFFICER _____

DATE _____

AGENCY: _____

AGENCY CODE _____

NAME OF CONTACT _____

ADDRESS _____

TELEPHONE (202) _____

FAX (202) _____

AUTHORIZING
OFFICER _____

DATE _____

PLEASE SEE NEXT PAGE FOR FUNDING INFORMATION

ATTACHMENT 1

PART II

DATE:

SERVICE INFORMATION AND FUNDING CODES*All fields must be completed in their entirety*Good/ Service
Total Value

 \$

	Agy	Year	Org Code	Index	PCA	Object	Agy Obj	Grant/Phase	Project/Phase
<i>Seller</i>									
<i>Buyer</i>									

Good/ Service
Total Value

 \$

	Agy	Year	Org Code	Index	PCA	Object	Agy Obj	Grant/Phase	Project/Phase
<i>Seller</i>									
<i>Buyer</i>									

Good/ Service
Total Value


 \$

	Agy	Year	Org Code	Index	PCA	Object	Agy Obj	Grant/Phase	Project/Phase
<i>Seller</i>									
<i>Buyer</i>									

Good/ Service
Total Value

 \$

	Agy	Year	Org Code	Index	PCA	Object	Agy Obj	Grant/Phase	Project/Phase
<i>Seller</i>									
<i>Buyer</i>									

<p>OFFICE OF THE CHIEF TECHNOLOGY OFFICER GOVERNMENT OF THE DISTRICT OF COLUMBIA</p> 	<p>MOU Executive Brief OCTO Division</p>
<p>OCTO Deputy/Executive: Carol Washington</p>	<p>Program Manager: Stephen Miller</p>
<p>Agency: DISTRICT OF COLUMBIA PUBLIC EMPLOYEE RELATIONS BOARD (PERB)</p>	<p>Dollar Amount: \$36,958.80</p>
<p>Date Submitted: May 7 2018 9:43AM</p>	<p>eMOU#: TO0CG0-2018-01068</p>
<p>Project Description:</p> <p>PERB has a need to upgrade their current Public Employee Relations Board Opinions to a modern application framework that is supportable and expandable for future use in a secure hosting environment</p>	
<p>Risks:</p> <p>PERB will continue with outdated application/system</p>	
<p>Challenges:</p> <p>Upgrade must be completed in FY2018</p>	
<p>Urgency:</p> <p> <input checked="" type="checkbox"/> Normal <input type="checkbox"/> Rush <input type="checkbox"/> Expedite </p>	



MEMORANDUM OF UNDERSTANDING

BETWEEN

DISTRICT OF COLUMBIA PUBLIC EMPLOYEE RELATIONS BOARD

AND

**DISTRICT OF COLUMBIA OFFICE OF THE CHIEF TECHNOLOGY
OFFICER**

FOR FISCAL YEAR 2018

MOU Number: TO0CG0-2018-01068

I. INTRODUCTION

This Memorandum of Understanding (this "MOU") is entered into between the DISTRICT OF COLUMBIA PUBLIC EMPLOYEE RELATIONS BOA ("PERB" or "Buyer Agency") and the DISTRICT OF COLUMBIA OFFICE OF CHIEF TECHNOLOGY OFFICER ("OCTO" or "Seller Agency"), collectively referred to herein as the "Parties".

BACKGROUND STATEMENT ON BUYER AGENCY

Consistent with the statutory language contained in the CMPA, PERB's mission has remained the same since the agency's inception. The Board:

- determines appropriate compensation and non-compensation bargaining units;
- certifies and decertifies labor organizations as exclusive bargaining representatives;
- adjudicates unfair labor practice complaints; considers appeals of grievance arbitration awards;
- investigates standards of conduct complaints;
- determines whether a particular subject or proposal is within the scope of bargaining;
- facilitates the resolution of impasses in contract negotiations;
- and adopts rules and regulations for conducting the business of the Board.

Consistent with the above-noted responsibilities, the Board is also authorized to issue subpoenas, conduct hearings and retain independent counsel to represent its interests.

BACKGROUND STATEMENT ON THE SELLER AGENCY

OCTO is the District agency responsible for centralizing the government's investments in information technology and telecommunications systems; it is tasked with developing, implementing, and enforcing policy directives and standards regarding information technology and telecommunications systems throughout the District government, and it serves as an expert advisor to other District agencies in developing, implementing, and maintaining the District's technology infrastructure and developing technology solutions for improving services to businesses, residents, and visitors to the District

II. LEGAL AUTHORITY FOR MOU

D.C. Official Code § 1-301.01(k).

III. OVERVIEW OF PROGRAM GOALS AND OBJECTIVES

This MOU covers the District of Columbia Public Employees Relations Board's ("PERB") need to upgrade their current Public Opinions and Cases website.

The current instance of this search utility resides on a minimally supported application environment utilizing legacy toolsets and manual process for document publication.

The legacy application does not meet the current needs of PERB to include functionality to offer full text search of the opinions and decisions and the capability to publish documents and case matter without manual intervention. This planned project will work to meet the needs of PERB by reusing, customizing and configuring a document management solution developed for the DC Office of Employee Appeals that are utilizing the District Enterprise Document Management (EDM) solution, FileNet, and custom .NET components that will create a supportable, expandable platform for PERB. This will allow PERB to meet their mandatory requirement to publish their Opinions and Cases to the general public.

IV. SCOPE OF SERVICES

Pursuant to the applicable authorities and in the furtherance of the shared goals of the Parties to carry out the purposes of this MOU expeditiously and economically, the Parties hereby agree as follows:

A. RESPONSIBILITIES OF SELLER AGENCY

1. The Seller Agency agrees to the terms, projected cost and fund availability associated with this MOU;
2. The Seller Agency agrees to appoint an OCTO point of contact empowered with ensuring that OCTO meets its duties and responsibilities under this MOU;
3. The Seller Agency agrees to provide the Consultants and OCTO Employees to provide consulting services, including application development and basic instruction and technical assistance to ensure a successful roll-out;
4. The Seller Agency agrees to ensure that OCTO conducts all requirements gathering and support tasks at PERB and completes the development tasks design reviews at OCTO;
5. The Seller Agency agrees to schedule requirements gathering sessions between PERB and OCTO for creating the Business Requirements Document for the project for PERB to sign;
6. The Seller Agency agrees to provide cost and time estimates for each task for review by PERB;
7. The Seller Agency agrees to create and update the electronic schedule of tasks to reflect tasks completed;
8. The Seller Agency agrees to assume responsibility for all OCTO decisions concerning the project; and
9. And the Seller Agency agrees to complete all milestones and deliverables under this MOU.

B. RESPONSIBILITIES OF BUYER AGENCY

1. The Buyer Agency agrees to the terms, projected cost, and fund availability associated with this MOU;
2. The Buyer Agency agrees to appoint a point of contact (Product Owner) empowered with the duties and responsibilities to assist OCTO with the performance of the services listed in Sections III and IV;

3. The Buyer Agency agrees to provide access to PERB subject matter experts, stakeholders and Program staff as needed for the purpose of requirements clarification and business process definition and documentation;
4. The Buyer Agency agrees to process an advance of projected costs (as stated in section VI below) to the seller within five (5) business days after execution of this MOU;
5. The Buyer Agency agrees to assume responsibility for all PERB decisions concerning the project; and
6. The Buyer Agency agrees to complete all milestones necessary for OCTO to execute on deliverables.

V. DURATION OF MOU

The duration of this MOU shall be for Fiscal Year 2018, and shall begin on the later of either May 31, 2018, or the last date of execution by the Parties, and shall expire on Sep 30, 2018, unless terminated in writing by the Parties prior to expiration pursuant to Section XI of this MOU.

VI. FUNDING PROVISIONS

A. COST OF SERVICES

Total cost for goods and/or services under this MOU shall not exceed \$36,958.80 for Fiscal Year 2018. Funding for goods and/or services shall not exceed the actual cost of the goods and/or services provided, based on the rates provided in the budget, attached hereto as Appendix A.

B. PAYMENT

1. Payment for the goods and/or services shall be made through an Intra-District advance by Buyer Agency to Seller Agency based on the total amount of this MOU.
 - a. Advances to Seller Agency for the services to be performed and/or goods to be provided shall not exceed the actual costs of the goods or services or the amount of this MOU.
 - b. Seller Agency shall receive the advance and bill Buyer Agency through the Intra-District process only for those goods and/or services actually provided pursuant to the terms of this MOU
2. Seller Agency shall provide Buyer Agency with online access to listing of itemized services;
3. Seller Agency shall:
 - a. Notify Buyer Agency within forty-five (45) days prior to the close of the fiscal year if it has reason to believe that all of the advance will not be billed during the current fiscal year; and
 - b. Return any excess advance to Buyer Agency within thirty (30) days of the end of the current fiscal year.

C. ANTI-DEFICIENCY CONSIDERATIONS

The Parties acknowledge and agree that nothing in this MOU creates a financial obligation in anticipation of an appropriation, and that all provisions of this MOU, or any subsequent agreement entered into by the Parties pursuant to this MOU, are and shall remain subject to the provisions of (i) the federal Anti-Deficiency Act, 31 U.S.C. §§ 1341, 1342, 1349, 1351, (ii) the District of Columbia Anti-Deficiency Act, D.C. Official Code §§ 47-355.01-355.08, (iii) D.C. Official Code § 47-105, and (iv) D.C. Official Code § 1-204.46, as the foregoing statutes may be amended from time to time, regardless of whether a particular obligation has been expressly so conditioned.

VII. AMENDMENTS AND MODIFICATIONS

This MOU may be amended or modified only upon prior written agreement of the Parties. Amendments or

modifications shall be dated and signed by the authorized representatives of the Parties.

VIII. CONSISTENT WITH LAW

The Parties shall comply with all applicable laws, rules and regulations whether now in effect or hereafter enacted or promulgated.

IX. COMPLIANCE AND MONITORING

Seller Agency will be subject to scheduled and unscheduled monitoring reviews to ensure compliance with all applicable requirements.

X. RECORDS AND REPORTS

Seller Agency shall maintain records and receipts for the expenditure of all funds provided pursuant to this MOU for a period of no less than three (3) years from the date of expiration or termination of this MOU and, upon the District of Columbia's request, make these documents available for inspection by duly authorized representatives of Buyer Agency and other officials as may be specified by the District of Columbia in its sole discretion

XI. TERMINATION

Either Party may terminate this MOU in whole or in part by giving thirty (30) calendar days advance written notice to the other Party. In the event of termination of this MOU, payment to the Seller Agency shall be held in abeyance until all required fiscal reconciliation, but not later than September 30 of the then current fiscal year.

XII. NOTICES

The following individuals are the contact points for each Party:

PERB

Martin, Clarene P. (PERB)

717 14th Street NW
Washington, DC,
Phone: (202) 727-4990
Email : clarene.martin@dc.gov

OCTO

Stephen Miller

200 I Street SE
Washington D.C 20003
Phone : (202) 727 0550
Email :stephenn.miller@dc.gov

XIII. PROCUREMENT PRACTICES ACT

If a District of Columbia agency or instrumentality plans to utilize the goods and/or services of an agent,

contractor, consultant or other third party to provide any of the goods and/or services under this MOU, then the agency or instrumentality shall abide by the provisions of the District of Columbia Procurement Practices Reform Act of 2010 (D.C. Official Code § 2-351.01, et seq.) to procure the goods or services.

XIV. RESOLUTION OF DISPUTES

The Parties Directors or the Parties Director's designees shall resolve all adjustments and disputes arising from services performed under this MOU. The decision of the Parties' Directors related to any disputes referred shall be final. In the event that the Parties are unable to resolve a financial issue, the matter shall be referred to the D.C. Office of the Chief Financial Officer, Office of Financial Operations and Systems.

XV. CONFIDENTIAL INFORMATION

The Parties to this MOU will use, restrict, safeguard and dispose of all information related to services provided by this MOU in accordance with all relevant federal and local statutes, regulations, and policies. Information received by either Party in the performance of responsibilities associated with the performance of this MOU shall remain the property of the Buyer Agency.

IN WITNESS WHEREOF, the Parties hereto have executed this MOU as follows:

**DISTRICT OF COLUMBIA PUBLIC EMPLOYEE RELATIONS BOARD, District of
Columbia**

Clarene Phyllis Martin

Date: 5/29/2018

Executive Director
Clarene Phyllis Martin

Office of the Chief Technology Officer, District of Columbia

Barney Krucoff

Date: 5/31/2018

Chief Technology Officer
Barney Krucoff

INTRA-DISTRICT STANDARD REQUEST FORM

Government of District of Columbia

MOU TO0CG0-2018-01068
Number:

Date of 05/24/2018
MOU:

Buyer Information

Agency Name: PERB

Agency Code: CG0

Name of Contact: Paul K. Blake

Address: 717 14th Street NW

Telephone #: (202) 727-4990

Fax #:

Paul K. Blake

Date: 05/24/2018

Signature

Seller Information

Agency Name: OCTO

Agency Code: TO0

Name of Contact:

Address: 200 I ST, SE WASHINGTON, DC 20003

Telephone #:

Fax #:

Date:

Signature

Service Information and Funding Codes

GOOD/ Website Services
 SERVICE:

Buyer

AGY	YR	ORG	FUND	INDEX	PCA	OBJ	AOBJ	GRANT	PROJ	AG1	AG2	AG3	AMOUNT
CG0	18	NA	0100	20001	12001	0409	0409	NA	NA	NA	NA	NA	\$36,958.80

Seller

AGY	YR	ORG	FUND	INDEX	PCA	OBJ	AOBJ	GRANT	PROJ	AG1	AG2	AG3	AMOUNT
-----	----	-----	------	-------	-----	-----	------	-------	------	-----	-----	-----	--------

eMOU Approval History6/4/2018 11:48:46
AM**TO0CG0-2018-01068**

Step Name	Name	Status Name	Status Date	Comments
MOU Author Review	Stephen Miller (OCTO)	Approved	5/9/2018 2:06:55 PM	approved after final draft review with agency director
IDSR Form Signature - Buyer Agency	Paul Blake, AFO (OCFO)	Signed	5/24/2018 4:36:38 PM	
OCTO General Counsel Review	Niquelle Allen (OCTO)	Approved	5/24/2018 5:01:22 PM	
OCTO Executives Review	Carol Washington (OCTO)	Approved	5/29/2018 12:53:19 PM	
Buyer Agency Final Review of MOU	Maxwell, Lindsey E. (PERB) (PERB)	Approved	5/29/2018 1:09:11 PM	
MOU Signature - Buyer Agency	Martin, Clarene P. (PERB) (PERB)	Signed	5/29/2018 2:23:01 PM	
MOU Signature - OCTO	Barney Krucoff (OCTO) (OCTO)	Signed	5/31/2018 8:46:36 AM	



MEMORANDUM OF UNDERSTANDING

BETWEEN

THE DISTRICT OF COLUMBIA PUBLIC EMPLOYEE RELATIONS BOARD

AND

THE DEPARTMENT OF HUMAN RESOURCES

FOR FISCAL YEAR 2019

I. INTRODUCTION

This Memorandum of Understanding (MOU) is entered into between the District of Columbia (District) Public Employee Relations Board (PERB or Buyer) and the Department of Human Resources (DCHR or Seller), collectively known as the Parties and individually as a Party.

II. PROGRAM GOALS AND OBJECTIVES

The Buyer serves as the personnel authority for its staff and provides personnel and resource support. However, the Buyer lacks the human resources (HR) processing infrastructure necessary to accommodate its personnel related operations. Through this MOU, the Seller shall provide the Buyer the needed HR services.

III. SCOPE OF SERVICES

Pursuant to the applicable authorities and in pursuit of the shared goals of the Parties to carry out the program goals and objectives expeditiously and economically, the Parties agree as follows:

A. RESPONSIBILITIES OF DCHR

DCHR shall provide PERB the HR services listed below. For each service, DCHR shall provide data processing and customer service. For purposes of this MOU, “customer service” includes advising PERB and its employees on matters related to a particular HR service. HR services include:

1. Benefits and retirement services;
2. Recruitment and staffing services;

3. Classification and compensation services;
4. Employee relations services;
5. Performance management services (ePerformance);
6. Policy advisement services; and
7. Learning and development services.

B. RESPONSIBILITIES OF PERB

In support of the above services, PERB shall:

1. Advance to DCHR fifteen thousand dollars (**\$15,000.00**) for HR services;
2. Ensure that DCHR receives all documentation reasonably necessary in a timely fashion to carry out its responsibilities under this MOU;
3. Ensure that PERB employees are actively enrolled in Employee Self Service;
4. Designate a PERB employee to serve as a Human Resources Authority (HRA), who will coordinate with DCHR personnel to facilitate the services provided by DCHR;
5. Coordinate, in good faith and promptly, with DCHR before engaging in any corrective or adverse action procedure involving a PERB employee, non-union dispute resolution or mediation, or non-union grievance process;
6. Ensure that all PERB management are properly trained in performance management concepts and PeopleSoft's ePerformance application. The HRA shall be responsible for PERB level ePerformance training and administration once they have received initial training from DCHR;
7. PERB agrees to be bound by the provisions of the Comprehensive Merit Personnel Act, Title 6B of the D.C. Municipal Regulations, and all implementing DCHR policies, procedures, issuances and other guidance, unless specifically superseded by statute; and
8. PERB agrees that this MOU does not include any services relating to enhanced suitability assessments pursuant to Chapter 4 of Title 6B of the D.C. Municipal Regulations.

IV. DURATION OF MOU

- A.** The period of this MOU shall be from October 1, 2018 through September 30, 2019

unless terminated in accordance with Section XI prior to the expiration.

- B.** The Parties may extend the term of this MOU by exercising a maximum of one (1) one-year option period. PERB shall provide DCHR with written notice of its intent to exercise an option period thirty (30) days prior to the expiration of the initial year of this MOU.
- C.** The exercise of an option period is subject to the availability of funds at the time of the exercise of the option.
- D.** Subject to appropriations, this paragraph serves as PERB's letter of intent for Fiscal Year 2020 to execute an extension pursuant to paragraph B of this section or execute a new MOU with identical terms for at least fifteen thousand dollars **(\$15,000.00)**.

V. AUTHORITY FOR MOU

The authority for this MOU may be found at D.C. Official Code § 1-301.01(k) (2016 Repl.), D.C. Official Code § 1-604.06(b)(6) (2016 Repl.), and D.C. Official Code § 1-605.01 (2016 Repl.).

VI. FUNDING PROVISIONS

A. COST OF SERVICES

- 1. Total cost for services under this MOU shall not exceed fifteen thousand dollars **(\$15,000.00)** for Fiscal Year 2019. Funding for services shall not exceed the actual cost of the goods and services.
- 2. The estimated cost of this MOU is based upon a flat fee.

B. PAYMENT

- 1. Payment for the services shall be made through an Intra-District advance by PERB to DCHR based on the total amount of this MOU.
- 2. DCHR shall receive the advance and bill PERB only for those goods and services actually provided pursuant to the terms of this MOU. DCHR shall return any excess advance to PERB within thirty (30) days of the end of the current fiscal year.
- 3. PERB shall report all services received under this MOU in its monthly Financial Review Process (FRP) report to the Office of Budget and Planning of the District of Columbia Office of the Chief Financial Officer.
- 4. Advances to DCHR for the services to be performed and goods to be provided

shall not exceed fifteen thousand dollars (**\$15,000.00**) in Fiscal Year 2019.

VII. ANTI-DEFICIENCY CONSIDERATIONS

The Parties acknowledge and agree that their respective obligations to fulfill financial obligations of any kind pursuant to any and all provisions of this MOU, or any subsequent agreement entered into by the Parties pursuant to this MOU, are and shall remain subject to the provisions of: (i) the federal Anti-Deficiency Act, 31 U.S.C. §§ 1341, 1342, 1349-1351; (ii) the District of Columbia Anti-Deficiency Act, D.C. Official Code §§ 47-355.01-355.08 (2015 Repl. & 2017 Supp.); (iii) D.C. Official Code §§ 1-206.03(e) (2016 Repl.) and 47-105 (2015 Repl.); and (iv) D.C. Official Code § 1-204.46 (2016 Repl.), as may be amended, regardless of whether a particular obligation has been expressly so conditioned.

VIII. COMPLIANCE AND MONITORING

As this MOU is funded by District of Columbia funds, DCHR will be subject to scheduled and unscheduled monitoring reviews by PERB to ensure compliance with all applicable requirements.

IX. RECORDS AND REPORTS

DCHR shall maintain records and receipts for the expenditure of all funds provided for a period of no less than three (3) years from the date of expiration or termination of this MOU and, upon the request of PERB or another District of Columbia government agency with legal authority to request review, make these documents available for inspection by duly authorized representatives of PERB or the relevant District of Columbia government agency.

X. CONFIDENTIAL INFORMATION

The Parties to this MOU will use, restrict, safeguard, and dispose of all information related to services provided under this MOU, in accordance with all relevant federal and local statutes, regulations, and policies. Information received by either Party in the performance of responsibilities associated with this MOU shall remain the property of PERB.

XI. TERMINATION

Either Party may terminate this MOU in whole or in part by giving forty-five (45) calendar days advance written notice to the other Party. In the event of the termination of this MOU, the Seller shall return any unused funds after all required fiscal reconciliation, but not later than September 30th of the then current fiscal year.

XII. NOTICE

The following individuals are the contact points for each Party under this MOU:

Kena Cofield Jones, Senior Advisor

Office of the Director, DCHR
1015 Half Street, SE, 8th Floor
Washington DC 20003
(202) 442-9667

Clarene P. Martin, Executive Director

Public Employee Relations Board
1100 4th Street, SW, Suite 630E
Washington, DC 20024
(202) 727-1822

XIII. AMENDMENTS AND MODIFICATIONS

The terms and conditions of this MOU may be modified only upon prior written agreement by the Parties. Amendments or modifications shall be dated and signed by the authorized representatives of the Parties.

XIV. MISCELLANEOUS

The Parties shall comply with all applicable laws, rules and regulations whether now in effect or hereafter enacted or promulgated and agree to be bound by the Comprehensive Merit Personnel Act, D.C. Official Code § 1-601.01 *et seq.*, as implemented through the District Personnel Manual.

XV. PROCUREMENT PRACTICES REFORM ACT

If a District of Columbia agency or instrumentality plans to utilize the goods or services of an agent, contractor, consultant or other third party to provide any of the goods or services under the MOU, then the agency or instrumentality shall abide by the provisions of the District of Columbia Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-351.01, *et. seq.*) (2016 Repl.) to procure the goods or services.

XVI. RESOLUTION OF DISPUTES


The Parties' Directors, or their designees, shall resolve all disputes or adjustments resulting from goods or services provided under this MOU. In the event the Parties are unable to resolve a financial issue, the matter shall be referred, in writing, to the Office of Financial Operations and Systems (OFOS) of the District of Columbia Office of the Chief Financial Officer. The decision of OFOS shall be final.

FOR THE PUBLIC EMPLOYEE RELATIONS BOARD


Clarene P. Martin,
Director


Date

FOR THE DEPARTMENT OF HUMAN RESOURCES


Ventris C. Gibson,
Director


Date

INTRA-DISTRICT STANDARD REQUEST FORM

Government of the District of Columbia

PART I**GENERAL**

MOU NUMBER: _____

DATE OF MOU: ____ / ____ / ____

SELLER INFORMATIONAGENCY: D.C. Department of Human ResourcesAGENCY CODE: BE0NAME OF CONTACT: James Hurley - Agency Fiscal OfficerADDRESS : 441 4th Street N.W. Siute 890 N.Washington, DC 20001TELEPHONE # : 202-727-3605FAX # : 202 727-0659

AUTHORIZING OFFICER _____ DATE: ____ / ____ / ____

BUYER INFORMATION

AGENCY: _____

AGENCY CODE: _____

NAME OF CONTACT: _____

ADDRESS : _____

TELEPHONE # : _____

FAX # : _____

AUTHORIZING OFFICER _____ DATE: ____ / ____ / ____

PLEASE SEE NEXT PAGE FOR FUNDING INFORMATION

PART II

MOU NUMBER: _____ 2 OF 2

SERVICE INFORMATION AND FUNDING CODES

GOOD/ SERVICE: HR Services

	AGY	YR	ORG CODE	FUND	INDEX	PCA	OBJ	AOBJ	GRANT/PH	PROJ/PH
Seller	BEO	19					4600	4600		
Buyer		19								

GOOD/ SERVICE:

DATE: ____ / ____ / ____

TOTAL: _____

	AGY	YR	ORG CODE	FUND	INDEX	PCA	OBJ	AOBJ	GRANT/PH	PROJ/PH
SELLER							4600			
BUYER										

GOOD/ SERVICE:

DATE: ____ / ____ / ____

TOTAL: _____

	AGY	YR	ORG CODE	FUND	INDEX	PCA	OBJ	AOBJ	GRANT/PH	PROJ/PH
SELLER							4600			
BUYER										

GOOD/ SERVICE:

DATE: ____ / ____ / ____

TOTAL: _____

	AGY	YR	ORG CODE	FUND	INDEX	PCA	OBJ	AOBJ	GRANT/PH	PROJ/PH
SELLER							4600			
BUYER										

PERB INTERAGENCY REPROGRAMMINGS, FY18 AND FY19 (Q16)

Including anticipated reprogrammings for remainder of FY19

[illegible]

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE CHIEF FINANCIAL OFFICER
GOVERNMENT OPERATIONS CLUSTER
OFFICE OF FINANCE AND RESOURCE MANAGEMENT

**MEMORANDUM**

To: Alana Intrieri
 Office of Policy and Legislative Affairs, EOM

Thru Angelique Rice, Associate Chief Financial Officer
 Government Operations Cluster

From: Clarene Martin, Executive Director
 Public Employee Relations Board

Marc Loud, Chief Judge
 Contract Appeals Board

Date: October 5, 2018

Subject: FY 2018 Request for Reprogramming of \$30,000 in Local Funds from the
 Public Employee Relations Board (CG0) to the Contract Appeals Board (AF0)

The Public Employee Relations Board is requesting to reprogram \$30,000 from its local budget to the Contract Appeals Board.

Why are the funds needed?

The funds are needed to cover personnel costs for the Contract Appeals Board. The agency's budget was adversely affected by the cost of living increases in FY 2018.

Is this a reprogramming to restore a budget cut authorized by the Mayor and/or Council?

No, this reprogramming does not restore a budget cut authorized by the Mayor or the Council.

What hardship will the District face if the action is postponed until the subsequent fiscal year?

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE CHIEF FINANCIAL OFFICER
GOVERNMENT OPERATIONS CLUSTER
OFFICE OF FINANCE AND RESOURCE MANAGEMENT



The Contract Appeals Board may end up deficit for FY 2018.

How will the funds be reprogrammed?

The funds will be reprogrammed from CSG 0040 – Legal Support to CSG 0125 - Adjudication. See the attached sheet for details.

Why are the funds available?

The funds are available as a result of less than anticipated legal service and hearing examiner fees during FY 2018 for the Public Employee Relations Board.

What programs, services, or other purchases will be delayed as a result of the action, and impact on the program or agency?

No other programs, services or purchases will be delayed as a result of this action.

Should you have any questions, please feel free to contact

Paul K. Blake, Agency Fiscal Officer, Government Operations Cluster on 202-727-9833.

SOAR Reprogramming Entry Form

Attachment A -- Local Funds (0100)

Attachment A -- Local Funds (0100)

OPERATING BUDGET REPROGRAMMING REQUEST													
Government of the District of Columbia					Originating Agency Name and Code: Public Employee Relations Board (CG0)					Budget Fiscal Year: 2018			
APPROVAL REQUIRED FOR THE FOLLOWING:					APPROVAL LEVEL:					Agency Directors: Clarene Martin/Marc Loud			
<input checked="" type="checkbox"/> Shift Between Agencies					<input checked="" type="checkbox"/> Agency					Agency AFO: Paul Blake			
<input type="checkbox"/> Shift Between Activities					<input checked="" type="checkbox"/> OBP					Associate CFO: Angelique Rice			
<input type="checkbox"/> Shift Between Programs					DC Council					Budget Reprogramming Amount Requested: \$ 30,000			
<input type="checkbox"/> Shift Within Programs										Prepared By: Paul Blake			
										DATE: 10/11/18			
										Total # of Pages: 1 of 1			
Agency Code	Program Code	Activity Code	Program Name	Agency Fund	Index	PCA	Object	Object Class	Approved Budget Amount	Current Budget Amount	Amount of Decrease ()	Amount of Increase (+)	Revised Budget Amount
CG0	2001	2001	LEGAL SUPPORT	0100	20001	12001	0408	0408	\$ 34,375.73	\$ 149,575.73	\$ 30,000.00		\$ 119,575.73
AFO	2001	2001	ADJUDICATION	0100	20001	12001	0125	0125	\$ 351,305.06	\$ 351,305.06		\$ 30,000.00	\$ 381,305.06
													\$ -
													\$ -
													\$ -
													\$ -
													\$ -
													\$ -
													\$ -
TOTAL									\$ 385,680.79	\$ 500,880.79	\$ 30,000.00	\$ 30,000.00	\$ 500,880.79

Justification of Reprogramming Proposal:
The funds are needed to cover the personnel services deficit in the Contract Appeals Board.

S061 V2.1 PRD DISTRICT OF COLUMBIA R*STARS 2.1 10/15/18 04:24 PM
LINK TO: AGENCY BUDGET FINANCIAL INQUIRY DSNF

AGENCY: AF0 AY: 18 ORG CODE: 2001 PGM CODE: 2001 FUNC CODE:
AP FUND: FUND: 0100 GRANT/PH: PROJECT/PH:
COMP SRC/GRP: 0012 OBJ/COBJ/AGY OBJ: AGY OBJ GROUP:
ORG LEVEL: 03 ADJUDICATION
PGM LEVEL: 02 ADJUDICATION
FUNC LEVEL:

INQ TYPE: MC (MA, YA, MY, YY, MC, YC) DETAIL/SUMMARY: D
INQ YEAR: 19 INQ MONTH: 01 ADJUSTED BUDG: 351,305.06
BUDGET AVAIL: 39,813.90- BUDG % AVAIL: .00
EXPEND/BUDG %: 111.33 ALLOT/BUDG %: 0.00
ALLOTMENT BAL: 391,118.96- UNEXPND ALLOT: 391,118.96-
BT TITLE AMOUNT BT TITLE AMOUNT
09 ORIG EXP BU 351,305.06
15 CASH EXPEND 388,706.66
17 ACCRUED EXP 2,412.30

F1-HELP F2-DOC INQ F5-NEXT F9-INTERRUPT ENTER-INQUIRE CLEAR-EXIT

S061 V2.1 PRD DISTRICT OF COLUMBIA R*STARS 2.1 10/15/18 04:25 PM
LINK TO: AGENCY BUDGET FINANCIAL INQUIRY DSNF

AGENCY: CG0 AY: 18 ORG CODE: 2001 PGM CODE: 2001 FUNC CODE: _____
AP FUND: FUND: 0100 GRANT/PH: PROJECT/PH: _____
COMP SRC/GRP: 0040 OBJ/COBJ/AGY OBJ: AGY OBJ GROUP: _____
ORG LEVEL: 03 LEGAL SUPPORT
PGM LEVEL: 02 LEGAL SUPPORT
FUNC LEVEL:

INQ TYPE: MC (MA, YA, MY, YY, MC, YC) DETAIL/SUMMARY: D
INQ YEAR: 19 INQ MONTH: 01 ADJUSTED BUDG: 149,575.73
BUDGET AVAIL: 82,346.49 BUDG % AVAIL: 55.05
EXPEND/BUDG %: 43.45 ALLOT/BUDG %: 0.00
ALLOTMENT BAL: 67,229.24- UNEXPND ALLOT: 67,229.24-
BT TITLE AMOUNT BT TITLE AMOUNT
09 ORIG EXP BU 34,375.73 19 PRE-ENCUM O .00
10 EXP BUD REV 115,200.00
15 CASH EXPEND 62,596.34
16 INTRA-DIST 2,232.90
17 ACCRUED EXP 2,400.00
18 ENCUMB OUTS .00

F1-HELP F2-DOC INQ F5-NEXT F9-INTERRUPT ENTER-INQUIRE CLEAR-EXIT

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of Contracting and Procurement

**MEMORANDUM**

TO: Deborah George Johnson
Office of Legislative Support - EOM

FROM: Clarene P Martin
Executive Director
Public Employee Relations Board

Thru: Angelique Rice, Associate Chief Financial Officer
Government Operations Cluster

DATE: May 21, 2018

SUBJECT: FY 2018 Request for Reprogramming of \$190,600 in Local Funds for the Public Employee Relations Board (CG0)

This memo is to request the reprogramming of 1) \$175,000 in local funds from personal services (PS) to nonpersonal services (NPS) to cover a projected deficit 2) \$15,600 in local fund within NPS to the correct budget attribute within the Public Employee Relations Board (CG0)

Why are the funds needed?

The funds are needed to cover unforeseen third party legal fee expenditures as well as hearing examiner expenses and to move the funds to the correct budget attribute.

Is this a reprogramming to restore a budget cut authorized by the Mayor and/or Council?

No, this reprogramming does not restore a budget cut authorized by the neither Mayor nor Council.

How will the funds be reprogrammed?

The funds will be reprogrammed internally:

From: Local Funds; Index: 20001; Com Obj: 0111; PCA: 12001 – Legal Support \$65,627.00
Local Funds; Index: 20002; Com Obj: 0111; PCA: 12002 - Court Appeals \$109,373.00
Local Funds; Index: 20003; Com Obj: 0408; PCA: 12003 – PERB \$15,600.00

To: Local Funds; Index: 20003; Comp Objects: 0427; PCA: 12003- PERB \$35,400.00
Local Funds; Index: 20001; Comp Objects: 0408; PCA: 12001- Legal Support \$115,200.00
Local Funds; Index: 20001; Comp Objects: 0417; PCA: 12001- Legal Support \$40,000.00

Why are the funds available?

The funds are available as a result of vacancy lapse savings.

What hardship will the District face if the action is postponed until the subsequent fiscal year?

If this reprogramming is not approved, PERB will be unable to defend its decisions and orders, which are appealed to the courts. In addition, PERB will not be able to seek enforcement of its orders in DC Superior Court.

What programs, services or other purchases will be delayed as a result of the action, and the impact on the program or agency?

There will be no delay or negative impact on a program or the agency if this action is approved.

Should you have any questions, please contact Paul Blake at (202) 727-9833.

Attachment

cc: Michael Bolden, Director of Financial Operations, Government Operations Cluster
cc: Gordon McDonald, Deputy Chief Financial Officer, Office of Budget and Planning

Attachment A -- Local (0100)

Reprogramming Budget Request/SOAR Budget Entry Form

Government of the District of Columbia		Originating Agency Name and Code: Public Employee Relations Board - CGO		Fund and Code: Local funds (0100)	
APPROVAL REQUIRED FOR THE FOLLOWING:		APPROVAL LEVEL:		Agency Director: (signature)	
Shift Between Agencies				Agency CFO: (signature)	
X Shift Between Activities		X Agency		Associate CFO: (signature)	
Shift Between Programs		DC Council		Budget Reprogramming Amount Requested: \$190,600.00	
				Prepared By: Akilu Ayalew	
				DATE: 05/21/18	

Program Code	Activity Code	Program Name	PCA	Index	Object	Object Class	Original Budget Amount	Current Budget Amount	Amount of Decrease (-)	Amount of Increase (+)	Revised Budget Amount
2000	2001	ADJUDICATION	12001	20001	0111	0011	\$246,069.00	\$246,069.00	(\$65,627.00)		\$180,442.00
2000	2002	ADJUDICATION	12002	20002	0111	0011	\$527,529.63	\$527,529.63	(\$109,373.00)		\$418,156.63
2000	2003	ADJUDICATION	20003	12003	0408	0408	\$15,600.00	\$15,600.00	(\$15,600.00)		\$0.00
2000	2003	ADJUDICATION	20003	12003	0427	0427	\$0.00	\$0.00		\$35,400.00	\$35,400.00
2000	2001	ADJUDICATION	12001	20001	0408	0408	\$15,597.73	\$15,597.73		\$115,200.00	\$130,797.73
2000	2001	ADJUDICATION	12001	20001	0417	0417	\$0.00	\$0.00		\$40,000.00	\$40,000.00
											\$0.00
											\$0.00
											\$0.00
											\$0.00
											\$0.00
											\$0.00
											\$0.00
											\$0.00
											\$0.00
											\$0.00
TOTAL							\$804,796.36	\$804,796.36	(\$190,600.00)	\$190,600.00	\$804,796.36

Justification of Reprogramming Proposal:

The agency has increased legal fee expenditures from third party working on the agency's court cases.

For OBP Use Only:

Approvals				
TASK	NAME	DATE	TITLE	PHONE
Keyed in SOAR By:				
Released in SOAR By:				
Approved By:				
(If Applicable) Override Approved				

Document Information (For OBP Use Only)

Doc Number:	
Batch Type:	
Batch Agency:	
Doc Date:	
Effective Date:	
MPCD Code:	

PERB INTRA-AGENCY REPROGRAMMINGS, FY18 AND FY19 (Q17)

Including anticipated reprogram mings for remainder of FY19

[illegible]

Question #21 Contracts.xlsx

Purchase Card Expenditures

PCARD	Payment Date	Vendor Name	Expenditure Amount	Purpose
Najibah Almahdi	5/19/2018	ADOBE *PRODUCTS	(\$10.34)	COMPUTER NETWORK-INFORMATION SERVICES
Najibah Almahdi	7/16/2018	AMAZON.COM	\$18.62	BOOK STORES-Voting Screen Divider
Najibah Almahdi	6/21/2018	AMERICAN AIRLINES	\$35.24	AMERICAN AIRLINES-Conference- ALRA
Najibah Almahdi	6/21/2018	AMERICAN AIRLINES	\$40.22	AMERICAN AIRLINES-Conference- ALRA
Najibah Almahdi	6/21/2018	AMERICAN AIRLINES	\$269.39	AMERICAN AIRLINES-Conference- ALRA
Najibah Almahdi	6/21/2018	AMERICAN AIRLINES	\$221.39	AMERICAN AIRLINES-Conference- ALRA
Najibah Almahdi	10/6/2017	AMERICAN BAR ASSOCIATI	\$425	Membership Organizations, Not Elsewhere Classified-Conference
Najibah Almahdi	10/6/2017	AMERICAN BAR ASSOCIATI	\$425	Membership Organizations, Not Elsewhere Classified-Conference
Najibah Almahdi	10/6/2017	AMERICAN BAR ASSOCIATI	\$425	Membership Organizations, Not Elsewhere Classified-Conference
Najibah Almahdi	10/6/2017	AMERICAN BAR ASSOCIATI	\$425	Membership Organizations, Not Elsewhere Classified-Conference
Najibah Almahdi	10/6/2017	AMERICAN BAR ASSOCIATI	\$425	Membership Organizations, Not Elsewhere Classified-Conference
Najibah Almahdi	3/22/2018	ARNOLD ENGRAVERS	\$20	Name Plates
Najibah Almahdi	5/23/2018	ASS'N OF LABOR REL. AG	\$1,947	ORGANIZATIONS CHARITABLE AND SOCIAL SERVICES
Najibah Almahdi	12/1/2017	BLUEBAY OFFICE INC	\$348.98	Stationery, Office & School Supply Stores
Najibah Almahdi	7/21/2018	BOSTON PARK PLAZA HOTE	\$246.07	LODGING-HOTELS MOTELS RESORTS-American Bar Association Conference
Najibah Almahdi	7/24/2018	BOSTON PARK PLAZA HOTE	\$45.78	LODGING-HOTELS MOTELS RESORTS-American Bar Association Conference

Purchase Card Expenditures

Najibah Almahdi	7/24/2018	BOSTON PARK PLAZA HOTE	\$22.89	LODGING-HOTELS MOTELS RESORTS-American Bar Association Conference
Najibah Almahdi	7/24/2018	BOSTON PARK PLAZA HOTE	\$738.21	LODGING-HOTELS MOTELS RESORTS-American Bar Association Conference
Najibah Almahdi	7/25/2018	BOSTON PARK PLAZA HOTE	\$41.31	LODGING-HOTELS MOTELS RESORTS-American Bar Association Conference
Najibah Almahdi	7/25/2018	BOSTON PARK PLAZA HOTE	\$1,343.66	LODGING-HOTELS MOTELS RESORTS-American Bar Association Conference
Najibah Almahdi	7/25/2018	BOSTON PARK PLAZA HOTE	\$1,097.59	LODGING-HOTELS MOTELS RESORTS-American Bar Association Conference
Najibah Almahdi	11/16/2017	CARAHSOFT TECHNOLOGY C	\$2,031.30	Computers,Computer Peripheral Equipment, Software
Najibah Almahdi	7/28/2018	CARAHSOFT TECHNOLOGY C	\$2,263.21	COMPUTERS COMPUTER PERIPHERAL EQUIPMENT SOFTWARE
Najibah Almahdi	2/23/2018	COMCAST	\$23.87	Cable and Other Pay Television
Najibah Almahdi	8/15/2018	COMMONWEALTH DIGITAL O	\$14.97	OFFICE PHOTOGRAPHIC PHOTOCOPY + MICROFILM EQUIPMT.
Najibah Almahdi	7/24/2018	DC BAR	\$289	ORGANIZATIONS MEMBERSHIP-NOT ELSEWHERE CLASSIFIED
Najibah Almahdi	7/27/2018	DC BAR	\$289	ORGANIZATIONS MEMBERSHIP-NOT ELSEWHERE CLASSIFIED
Najibah Almahdi	7/27/2018	DC BAR	\$279	ORGANIZATIONS MEMBERSHIP-NOT ELSEWHERE CLASSIFIED
Najibah Almahdi	8/20/2018	DC BAR	\$279	ORGANIZATIONS MEMBERSHIP-NOT ELSEWHERE CLASSIFIED
Najibah Almahdi	2/20/2018	DMI* DELL K-12/GOVT	\$889	Computers,Computer Peripheral Equipment, Software
Najibah Almahdi	4/14/2018	DMI* DELL K-12/GOVT	\$1,710.06	COMPUTERS COMPUTER PERIPHERAL EQUIPMENT SOFTWARE
Najibah Almahdi	5/8/2018	DMI* DELL K-12/GOVT	\$59.55	COMPUTERS COMPUTER PERIPHERAL EQUIPMENT SOFTWARE
Najibah Almahdi	5/8/2018	DMI* DELL K-12/GOVT	\$227.78	COMPUTERS COMPUTER PERIPHERAL EQUIPMENT SOFTWARE

Purchase Card Expenditures

Najibah Almahdi	9/27/2018	HON ASI GUN HBF PAO MA	\$2,582.70	OFFICE AND COMMERCIAL FURNITURE
Najibah Almahdi	10/7/2017	IRON MOUNTAIN	\$644.95	BUSINESS SERVICES-NOT ELSEWHERE CLASSIFIED- Paper Filing Management Facility
Najibah Almahdi	2/23/2018	IRON MOUNTAIN	\$880.38	BUSINESS SERVICES-NOT ELSEWHERE CLASSIFIED- Paper Filing Management Facility
Najibah Almahdi	3/17/2018	IRON MOUNTAIN	\$215.61	BUSINESS SERVICES-NOT ELSEWHERE CLASSIFIED- Paper Filing Management Facility
Najibah Almahdi	5/24/2018	IRON MOUNTAIN	\$223.15	BUSINESS SERVICES-NOT ELSEWHERE CLASSIFIED- Paper Filing Management Facility
Najibah Almahdi	5/24/2018	IRON MOUNTAIN	\$215.61	BUSINESS SERVICES-NOT ELSEWHERE CLASSIFIED- Paper Filing Management Facility
Najibah Almahdi	5/24/2018	IRON MOUNTAIN	\$337.85	BUSINESS SERVICES-NOT ELSEWHERE CLASSIFIED- Paper Filing Management Facility
Najibah Almahdi	9/12/2018	IRON MOUNTAIN	\$902.50	BUSINESS SERVICES-NOT ELSEWHERE CLASSIFIED- Paper Filing Management Facility
Najibah Almahdi	3/28/2018	KIMBALL OFFICE	\$4,157.03	Office and Commercial Furniture
Najibah Almahdi	4/28/2018	MACROMEDIA, INC.	\$190.22	COMPUTER NETWORK-INFORMATION SERVICES
Najibah Almahdi	11/30/2017	METRO 083-WATERFRONT	\$32	Local/Suburban Commuter Transportation-Board Member Metro Cards
Najibah Almahdi	12/21/2017	METRO 083-WATERFRONT	\$128	Local/Suburban Commuter Transportation-Board Member Metro Cards
Najibah Almahdi	9/5/2018	METRO 083-WATERFRONT	\$29.25	Local/Suburban Commuter Transportation-Board Member Metro Cards
Najibah Almahdi	9/5/2018	METRO FARE AUTOLOAD	\$30	Local/Suburban Commuter Transportation-Board Member Metro Cards
Najibah Almahdi	11/28/2017	OFFICE OF ADMIS (COA)	\$20	Court Costs, Alimony, Child Support- DC Bar
Najibah Almahdi	7/6/2018	David Michael Inc.	\$1,950	Time Matters Legal Software Support
Najibah Almahdi	8/21/2018	David Michael Inc.	\$1,950	Time Matters Legal Software Support

Purchase Card Expenditures

Najibah Almahdi	9/11/2018	David Michael Inc.	\$1,950	Time Matters Legal Software Support
Najibah Almahdi	3/16/2018	REI*MATTHEW BENDER &CO	\$211	Direct Marketing-Not Elsewhere Classified-West Law
Najibah Almahdi	10/5/2017	STANDARD OFFICE SUPPLY	\$329.99	Office Supplies-Variou
Najibah Almahdi	10/5/2017	STANDARD OFFICE SUPPLY	\$179	Office Supplies-Variou
Najibah Almahdi	10/17/2017	STANDARD OFFICE SUPPLY	\$472.97	Office Supplies-Variou
Najibah Almahdi	10/19/2017	STANDARD OFFICE SUPPLY	(\$329.99)	Office Supplies-Variou
Najibah Almahdi	10/19/2017	STANDARD OFFICE SUPPLY	\$26.49	Office Supplies-Variou
Najibah Almahdi	10/30/2017	STANDARD OFFICE SUPPLY	(\$47.37)	Office Supplies-Variou
Najibah Almahdi	11/16/2017	STANDARD OFFICE SUPPLY	\$1,151.93	Office Supplies-Variou
Najibah Almahdi	11/16/2017	STANDARD OFFICE SUPPLY	\$358.65	Office Supplies-Variou
Najibah Almahdi	11/29/2017	STANDARD OFFICE SUPPLY	(\$174.89)	Office Supplies-Variou
Najibah Almahdi	1/26/2018	STANDARD OFFICE SUPPLY	\$168.09	Office Supplies-Variou
Najibah Almahdi	2/23/2018	STANDARD OFFICE SUPPLY	\$163.63	Office Supplies-Variou
Najibah Almahdi	3/16/2018	STANDARD OFFICE SUPPLY	\$205.98	Office Supplies-Variou
Najibah Almahdi	4/6/2018	STANDARD OFFICE SUPPLY	\$221.91	Office Supplies-Variou
Najibah Almahdi	5/4/2018	STANDARD OFFICE SUPPLY	\$446.57	Office Supplies-Variou
Najibah Almahdi	5/29/2018	STANDARD OFFICE SUPPLY	\$39.08	Office Supplies-Variou

Purchase Card Expenditures

Najibah Almahdi	5/30/2018	STANDARD OFFICE SUPPLY	\$301.44	Office Supplies-Variou
Najibah Almahdi	7/18/2018	STANDARD OFFICE SUPPLY	\$51.49	Office Supplies-Variou
Najibah Almahdi	7/20/2018	STANDARD OFFICE SUPPLY	\$61.99	Office Supplies-Variou
Najibah Almahdi	7/20/2018	STANDARD OFFICE SUPPLY	\$796.82	Office Supplies-Variou
Najibah Almahdi	7/27/2018	STANDARD OFFICE SUPPLY	\$272.90	Office Supplies-Variou
Najibah Almahdi	8/3/2018	STANDARD OFFICE SUPPLY	\$46.98	Office Supplies-Variou
Najibah Almahdi	9/12/2018	STANDARD OFFICE SUPPLY	\$39.30	Office Supplies-Variou
Najibah Almahdi	11/4/2017	STAPLS6922441544000	\$79.28	Business Cards
Najibah Almahdi	11/4/2017	STAPLS6922441544001	\$31.71	Business Cards
Najibah Almahdi	1/25/2018	STAPLS6922441544002	(\$2.59)	Business Cards
Najibah Almahdi	11/16/2017	SUPERIOR COURIERS LLC	\$78	Courier Services-Air Or Ground, Freight Forwarders
Najibah Almahdi	12/19/2017	SUPERIOR COURIERS LLC	\$78	Courier Services-Air Or Ground, Freight Forwarders
Najibah Almahdi	2/8/2018	SUPERIOR COURIERS LLC	\$130	Courier Services-Air Or Ground, Freight Forwarders
Najibah Almahdi	3/8/2018	SUPERIOR COURIERS LLC	\$192	Courier Services-Air Or Ground, Freight Forwarders
Najibah Almahdi	4/11/2018	SUPERIOR COURIERS LLC	\$228	COURIER SVC-AIR + GROUND FREIGHT FORWARDERS
Najibah Almahdi	5/10/2018	SUPERIOR COURIERS LLC	\$156	COURIER SVC-AIR + GROUND FREIGHT FORWARDERS
Najibah Almahdi	6/13/2018	SUPERIOR COURIERS LLC	\$188	COURIER SVC-AIR + GROUND FREIGHT FORWARDERS

Purchase Card Expenditures

Najibah Almahdi	7/11/2018	SUPERIOR COURIERS LLC	\$234	COURIER SVC-AIR + GROUND FREIGHT FORWARDERS
Najibah Almahdi	8/14/2018	SUPERIOR COURIERS LLC	\$287	COURIER SVC-AIR + GROUND FREIGHT FORWARDERS
Najibah Almahdi	9/11/2018	SUPERIOR COURIERS LLC	\$287	COURIER SVC-AIR + GROUND FREIGHT FORWARDERS
Najibah Almahdi	10/6/2017	THOMSON WEST*TCD	\$278.07	Legal Software- West Law
Najibah Almahdi	10/6/2017	THOMSON WEST*TCD	\$278.06	Legal Software- West Law
Najibah Almahdi	1/9/2018	THOMSON WEST*TCD	\$3,963.75	Legal Software- West Law
Najibah Almahdi	7/5/2018	TM TECHNOLOGIES	\$3,607.94	ELECTRONIC SALES
Najibah Almahdi	7/10/2018	TM TECHNOLOGIES	\$2,939.92	ELECTRONIC SALES
Najibah Almahdi	7/19/2018	TM TECHNOLOGIES	\$1,552.23	ELECTRONIC SALES
Najibah Almahdi	8/8/2018	TM TECHNOLOGIES	\$1,012.47	ELECTRONIC SALES
Najibah Almahdi	9/26/2018	TM TECHNOLOGIES	\$4,656.24	ELECTRONIC SALES
Najibah Almahdi	12/19/2017	USPS PO 1049480240	\$8.50	Postage Services-Government Only
Najibah Almahdi	1/10/2018	USPS PO 1049480240	\$29.40	Postage Services-Government Only
Najibah Almahdi	3/5/2018	USPS PO 1049480240	\$50	Postage Services-Government Only
Najibah Almahdi	9/27/2018	VERITAS CONSULTING GRO	\$998	Install Security Camera and Dorr Opener in Suite
Najibah Almahdi	5/1/2018	VYTE.IN PRO MONTHLY	\$10	Software for Scheduling Hearings/Mediations
Najibah Almahdi	5/30/2018	VYTE.IN PRO MONTHLY	\$10	Software for Scheduling Hearings/Mediations

Purchase Card Expenditures

Najibah Almahdi	6/30/2018	VYTE.IN PRO MONTHLY	\$10	Software for Scheduling Hearings/Mediations
Najibah Almahdi	7/30/2018	VYTE.IN PRO MONTHLY	\$20	Software for Scheduling Hearings/Mediations
Najibah Almahdi	8/30/2018	VYTE.IN PRO MONTHLY	\$20	Software for Scheduling Hearings/Mediations
Najibah Almahdi	7/20/2018	VYTE.IN S.A.S	\$3.35	Software for Scheduling Hearings/Mediations



JPMORGAN CHASE BANK NA
P.O. BOX 15918
MAIL SUITE DE1-1404
WILMINGTON DE 19850

MEMO STATEMENT
THIS IS NOT A BILL

ACCOUNT NUMBER 5550-0200-8476-0926

STATEMENT DATE 10-31-18

NET CHARGES \$3,827.58

NAJIBAH ALMAHDI ** 00000000
DCGOVTAXID 53-6001131
1100 4TH STREET SW SUITE E610
WASHINGTON DC 20024-4451

FOR RECONCILIATION PURPOSES ONLY. DO NOT SEND PAYMENT.

NAME: NAJIBAH ALMAHDI

CYCLE LIMIT: \$20,000

ACCOUNTING CODE:

CARDHOLDER ACTIVITY

Purchasing Activity

Post Date	Tran Date	Reference Number	Transaction Description	Amount
10-01	09-28	05227028271200045418097	TM TECHNOLOGIES 202-393-1096 DC	2,104.63
10-01	09-28	55432868271200015992738	THOMSON WEST*TC D 800-328-4880 MN P.O.S.: 6123972010 SALES TAX: 0.00	42.25
10-01	09-27	85140518271900011800469	STANDARD OFFICE SUPPLY DROSE@MDMSTAN DC P.O.S.: 553284 SALES TAX: 0.00	1,337.66
10-29	10-24	85140518299900015000932	STANDARD OFFICE SUPPLY DROSE@MDMSTAN DC P.O.S.: 554034 SALES TAX: 0.00	298.66
10-29	10-25	85140518299900015000999	STANDARD OFFICE SUPPLY DROSE@MDMSTAN DC P.O.S.: 553284 SALES TAX: 0.00	44.38
Total Purchasing Activity				3,827.58

FOR CUSTOMER SERVICE CALL:
1-800-316-6056

FOR LOST/STOLEN CARDS CALL:
1-800-316-6056

FOR TTY/TDD SERVICE CALL:
1-800-955-8060

ACCOUNT NUMBER

XXXX-XX00-8476-0926

STATEMENT DATE:

10/31/18

ACCOUNT SUMMARY

PURCHASES&
OTHER CHARGES 3,827.58

CASH ADVANCES .00

CREDITS .00

CASH ADVANCE FEE .00

NET CHARGES \$3,827.58

DISPUTE AMOUNT .00

SEND BILLING INQUIRIES TO:

JPMORGAN CHASE BANK NA
COMMERCIAL CARD SOLUTIONS
P.O. BOX 2015
MAIL SUITE IL1-6225
ELGIN, IL 60121



JPMORGAN CHASE BANK NA
P.O. BOX 15918
MAIL SUITE DE1-1404
WILMINGTON DE 19850

MEMO STATEMENT
THIS IS NOT A BILL

ACCOUNT NUMBER 5550-0200-8476-0926

STATEMENT DATE 11-30-18

NET CHARGES \$2,498.86

NAJIBAH ALMAHDI ** 00000000
DCGOVTAXID 53-6001131
1100 4TH STREET SW SUITE E610
WASHINGTON DC 20024-4451

FOR RECONCILIATION PURPOSES ONLY. DO NOT SEND PAYMENT.

NAME: NAJIBAH ALMAHDI

CYCLE LIMIT: \$20,000

ACCOUNTING CODE:

CARDHOLDER ACTIVITY

Purchasing Activity

Post Date	Tran Date	Reference Number	Transaction Description	Amount
11-23	11-20	55447328325014000722230	AMERICAN BAR ASSOCIATI 8002852221 IL P.O.S.: AC1O0FF80C7A SALES TAX: 0.00	450.00
11-29	11-27	75182538332900014300066	ARNOLD ENGRAVERS WASHINGTON DC	37.50
11-30	11-29	05436848334000437679469	USPS PO 1049480240 WASHINGTON DC	30.00
Total Purchasing Activity				517.50

Travel Activity

Post Date	Tran Date	Reference Number	Transaction Description	Amount
11-05	11-02	55436878307263077749761	HILTON HOTELS SAN FRANCISCO CA 4664677 ARRIVAL: 11-02-18	313.25 CR
11-05	11-02	55436878307263077749779	HILTON HOTELS SAN FRANCISCO CA 5031103125 ARRIVAL: 11-02-18	1,253.00

FOR CUSTOMER SERVICE CALL:
1-800-316-6056

FOR LOST/STOLEN CARDS CALL:
1-800-316-6056

FOR TTY/TDD SERVICE CALL:
1-800-955-8060

ACCOUNT NUMBER

XXXX-XX00-8476-0926

STATEMENT DATE:

11/30/18

ACCOUNT SUMMARY

PURCHASES&
OTHER CHARGES 2,812.11

CASH ADVANCES .00

CREDITS 313.25

CASH ADVANCE FEE .00

NET CHARGES \$2,498.86

DISPUTE AMOUNT .00

SEND BILLING INQUIRIES TO:

JPMORGAN CHASE BANK NA
COMMERCIAL CARD SOLUTIONS
P.O. BOX 2015
MAIL SUITE IL1-6225
ELGIN, IL 60121

NAJIBAH ALMAHDI
DCGOVTAXID53-6001131
1100 4TH STREET SW SUITE E610
WASHINGTONDC 20024-4451

ACCOUNT NUMBER
5550-0200-8476-0926

STATEMENT DATE: 11/30/18

CARDHOLDER ACTIVITY**Travel Activity**

Post Date	Tran Date	Reference Number	Transaction Description	Amount
11-05	11-02	55436878307263077750793	HILTON HOTELS SAN FRANCISCO CA 5031103125 ARRIVAL: 11-02-18	313.25
11-05	11-02	55436878307263077754530	HILTON HOTELS SAN FRANCISCO CA 5031103125 ARRIVAL: 11-02-18	521.70
11-12	11-09	55310208314010000005288	SUPERIOR COURIERS LLC WASHINGTON DC	52.00
11-13	11-11	55436878316163161788692	HILTON HOTELS SAN FRANCISCO CA 5241112162 ARRIVAL: 11-11-18	99.66
11-20	11-19	05436848324000442009217	METRO FARE AUTOLOAD 202-962-5711 DC	30.00
11-27	11-26	85179248330980005853424	QUICK MESSENGER SERVIC BETHESDA MD P.O.S.: 85126623 SALES TAX: 0.00	25.00
Total Travel Activity				1,981.36



JPMORGAN CHASE BANK NA
P.O. BOX 15918
MAIL SUITE DE1-1404
WILMINGTON DE 19850

MEMO STATEMENT
THIS IS NOT A BILL

ACCOUNT NUMBER 5550-0200-8476-0926

STATEMENT DATE 12-31-18

NET CHARGES \$12,524.57

NAJIBAH ALMAHDI ** 00000000
DCGOVTAXID 53-6001131
1100 4TH STREET SW SUITE E610
WASHINGTON DC 20024-4451

FOR RECONCILIATION PURPOSES ONLY. DO NOT SEND PAYMENT.

NAME: NAJIBAH ALMAHDI

CYCLE LIMIT: \$20,000

ACCOUNTING CODE:

CARDHOLDER ACTIVITY

Purchasing Activity

Post Date	Tran Date	Reference Number	Transaction Description	Amount
12-03	11-30	55500368334083323547722	NEAL R. GROSS & CO., I 2022344433 DC P.O.S.: 75465 SALES TAX: 46.81	826.80
12-03	11-30	55500368334083711711468	NEAL R. GROSS & CO., I 2022344433 DC P.O.S.: 75464 SALES TAX: 52.81	932.80
12-05	11-30	85140518338900018700341	STANDARD OFFICE SUPPLY DROSE@MDMSTAN DC P.O.S.: 554999 SALES TAX: 0.00	69.74
12-13	12-12	55429508347027770741183	BUYONLINENOW.COM 8887181134 MN P.O.S.: E4228250 SALES TAX: 0.00	205.33
12-14	12-13	55310208347083712099379	IRON MOUNTAIN 8009343453 MA P.O.S.: 4081446718 SALES TAX: 0.00	688.92
12-14	12-12	85504998347900011978244	HANCOCK & MOORE, INC 828-4951947 NC P.O.S.: CUSTOMERID SALES TAX: 0.00	3,779.00

FOR CUSTOMER SERVICE CALL:
1-800-316-6056

FOR LOST/STOLEN CARDS CALL:
1-800-316-6056

FOR TTY/TDD SERVICE CALL:
1-800-955-8060

ACCOUNT NUMBER

XXXX-XX00-8476-0926

STATEMENT DATE:

12/31/18

ACCOUNT SUMMARY

PURCHASES &
OTHER CHARGES 12,524.57

CASH ADVANCES .00

CREDITS .00

CASH ADVANCE FEE .00

NET CHARGES \$12,524.57

DISPUTE AMOUNT .00

SEND BILLING INQUIRIES TO:

JPMORGAN CHASE BANK NA
COMMERCIAL CARD SOLUTIONS
P.O. BOX 2015
MAIL SUITE IL1-6225
ELGIN, IL 60121

NAJIBAH ALMAHDI
DCGOVTAXID53-6001131
1100 4TH STREET SW SUITE E610
WASHINGTONDC 20024-4451

ACCOUNT NUMBER

5550-0200-8476-0926

STATEMENT DATE: 12/31/18

CARDHOLDER ACTIVITY

Purchasing Activity

Post Date	Tran Date	Reference Number	Transaction Description	Amount
12-14	12-12	85504998347900011978269	HANCOCK & MOORE, INC 828-4951947 NC P.O.S.: CUSTOMERID SALES TAX: 0.00	3,779.00
12-21	12-18	85140518354900010800577	STANDARD OFFICE SUPPLY DROSE@MDMSTAN DC P.O.S.: 555585 SALES TAX: 0.00	87.00
12-28	12-27	05227028361200047585449	TM TECHNOLOGIES 202-393-1096 DC	1,999.98
Total Purchasing Activity				12,368.57

Travel Activity

Post Date	Tran Date	Reference Number	Transaction Description	Amount
12-13	12-12	55310208347010000004605	SUPERIOR COURIERS LLC WASHINGTON DC	156.00
Total Travel Activity				156.00

PUBLIC EMPLOYEE RELATIONS BOARD ORGANIZATIONAL CHART

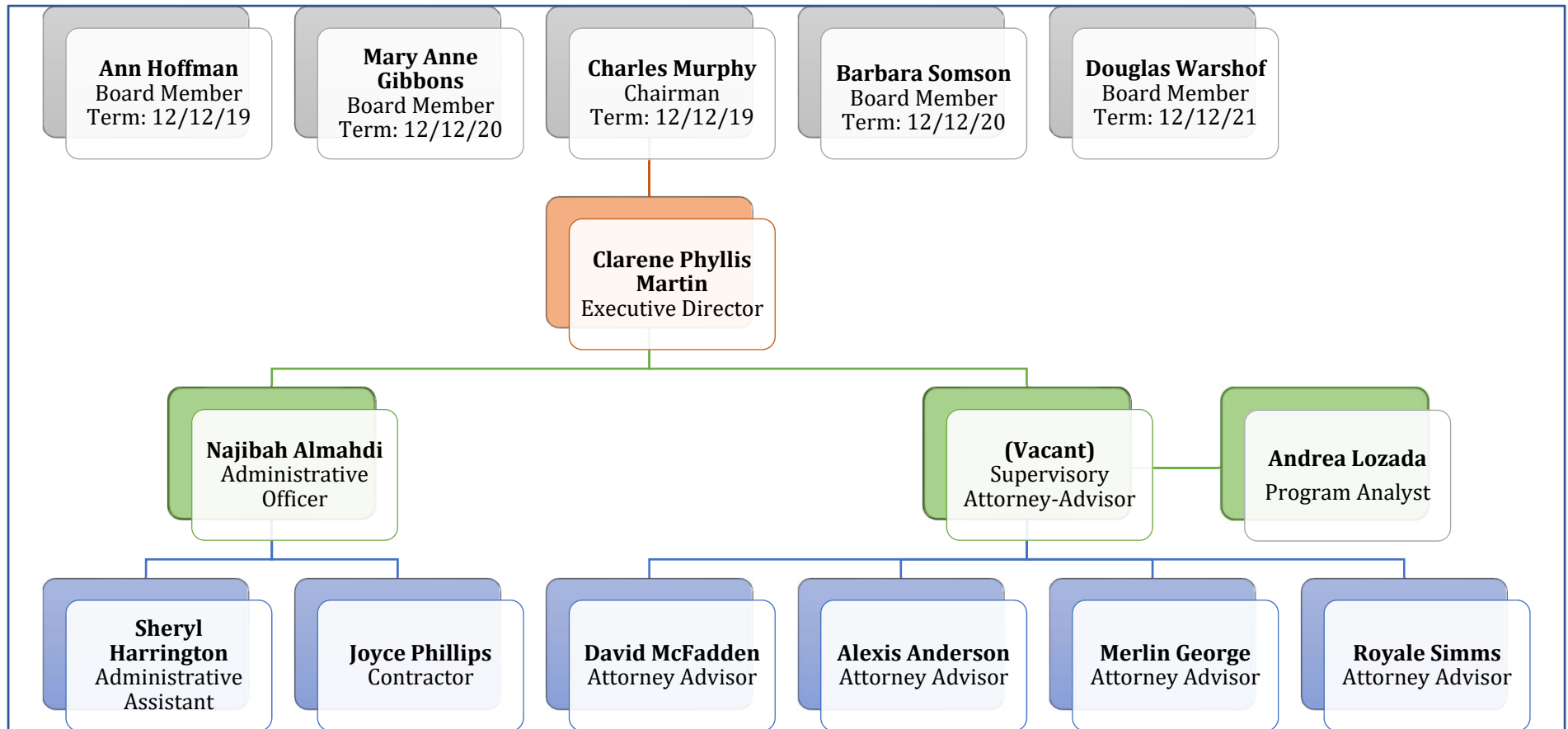


CHART OF PERB AGENCY PERSONNEL, as of Feb. 1, 2019 (Q25)

Q25 Personne

[illegible]

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION**

<p>AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, LOCAL 1000, AFL-CIO,4058,</p> <p style="text-align: center;">Petitioner,</p> <p>v.</p> <p>DISTRICT OF COLUMBIA PUBLIC EMPLOYEE RELATIONS BOARD,</p> <p style="text-align: center;">Respondent.</p>	<p>Case No. 2016 CA 004861 P(MPA) Judge Elizabeth Carroll Wingo Civil Calendar 14</p>
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ORDER

This matter is before the Court on Respondent District of Columbia Public Employee Relations Board's ("PERB") Motion for Remand ("Motion"), filed on February 17, 2017, and PERB's Motion to Amend Briefing Schedule, filed February 22, 2017.¹ Petitioner American Federation of Government Employees ("the Union") filed its Opposition to Motion to Remand and Partial Opposition to Motion of an Extension of the Briefing Schedule ("Opposition") on February 27, 2017.

STATEMENT OF FACTS

This case arises from an unfair labor practice complaint filed by the Union against the District of Columbia Department of Employment Services ("DOES") contending that the Agency's unilateral decision to change a dress code without bargaining in good faith with the Union is a violation of the District's Comprehensive Merit Personnel Act ("CMPA"). Complaint at 2. PERB issued its final decision on June 9, 2016, rejecting the findings of the Hearing

¹ The Motion to Amend was filed "in the event that the Court denies PERB's Motion to Remand." Mot. to Amend at 1.

Examiner and dismissing Union's complaint with prejudice. *Id.* at 2-3. The Union filed a timely petition for review by the Superior Court of the District of Columbia on July 5, 2016. Now, PERB, through its Motion for Remand, seeks to remand the case back to PERB in order to reconsider or clarify its decision. Mot. at ¶ 7. PERB believes this is necessary because "...the standards for adjudicating an unfair labor practice complaint currently lack sufficient clarity" when "PERB's decisions are relied upon by unions representing District employees and management alike in guiding their conduct in labor relations." *Id.* at ¶¶ 6-7. In its Opposition, the Union contends that PERB's request for remand is arbitrary and capricious, and that they would be severely prejudiced by a remand if granted. *See Opp. to Mot.* at 4-5.

STANDARD OF REVIEW

"Administrative agencies have the inherent power to reconsider their own decisions through a voluntary remand." *Code v. McHugh*, 139 F. Supp. 3d 465, 468 (D.D.C. 2015) (citing *Sierra Club v. Van Antwerp*, 560 F. Supp. 2d 21, 23 (D.D.C. 2008)). The court has the discretion over whether to grant an agency's motion for remand. *Carpenters Indus. Council v. Salazar*, 734 F. Supp. 2d 126, 132 (D.D.C. 2010). The court may grant an agency's request for voluntary remand "(i) when new evidence becomes available after an agency's original decision was rendered, or (ii) where intervening events outside of the agency's control may affect the validity of an agency's actions." *Code*, 139 F. Supp. 3d, at 468 (quoting *Carpenters Indus. Council*, 734 F. Supp. 2d at 132). "Even in the absence of new evidence or intervening events, voluntary remand may be appropriate where an agency requests a remand (without confessing error) in order to reconsider its previous position, or where the agency believes that its original decision is incorrect on the merits and wishes to change the result." *Id.* (quoting *SKF USA, Inc. v. United States*, 254 F.3d 1022, 1029 (Fed. Cir. 2001)) (internal quotation marks omitted). In situations

where new evidence or an intervening event is absent, “courts retain the discretion to remand an agency decision when an agency has raised substantial and legitimate concerns in support of remand.” *XP Vehicles, Inc. v. United States DOE*, 156 F. Supp. 3d 185, 187 (D.D.C. 2016) (citing *Carpenters Indus. Council*, 734 F. Supp. 2d at 132)(internal quotation marks omitted); *see also SKF USA, Inc.*, 254 F.3d at 1029 (“Nevertheless, if the agency's concern is substantial and legitimate, a remand is usually appropriate.”). The D.C. Circuit has also deployed a three-pronged framework to guide the exercise of courts’ discretion in this circumstance; “this inquiry asks: (1) whether defendants have identified substantial and legitimate concerns in support of a voluntary remand, (2) whether voluntary remand would conserve the Court's and the parties' time and resources, and (3) whether voluntary remand would cause undue prejudice [to plaintiff.]” *XP Vehicles, Inc.*, 156 F. Supp. 3d at 187 (quoting *FBME Bank Ltd. v. Lew*, 142 F. Supp. 3d 70, 73 (D.D.C. 2015)) (internal quotation marks omitted).

When an agency asks for a remand in order to reconsider its previous position, the agency need not “confess error in order to have the opportunity to revisit its prior determination.” *Id.* at 189. “[The agency] might simply state that it had doubts about the correctness of its decision or that decision’s relationship to the agency’s other policies.” *SKF USA, Inc.*, 254 F.3d at 1029 (“It might argue, for example, that it wished to consider further the governing statute, or the procedures that were followed.”).

DISCUSSION AND ANALYSIS

Respondent PERB requests that this Court remand the matter in order to reconsider or clarify its own decision. Mot. at 1. There is no indication that the basis for motion is either frivolous or made in bad faith; the proffered reason is a legitimate reason by which a court may grant an agency’s request for voluntary remand. *Se, SKF USA, Inc.*, 254 F.3d at 1029. Moreover,


PERB specifically indicates that remanding “may well address some or all of the concerns raised by AFGE in this petition for review.” Mot. at ¶ 8. Finally, although the Union is correct that there has been a significant passage of time since the underlying complaints took place, the Court does not find the Union’s allegations regarding prejudice persuasive given the nature of this case. Thus, evaluating the matter under the D.C. Circuit’s three-pronged approach, the Court finds that remand is appropriate.²

CONCLUSION

Accordingly, it is this 14th day of April, 2017, hereby

ORDERED that the Respondent PERB’s Motion for Remand is hereby **GRANTED**, and it is hereby **ORDERED** that the case is remanded to PERB for clarification and reconsideration, and it is

FURTHER ORDERED that the Motion to Amend the Briefing Schedule is **DENIED** as moot.


 JUDGE ELIZABETH CARROLL WINGO
 SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
 (Signed in Chambers)

Copies via CaseFileXpress to:

Brenda Zwack
 Divya Vasudevan
Counsel for Petitioner

² The Union also argues that the motion should be denied because PERB did not comply with Super. Ct. Civ. R. 12-I (a) because it failed to seek DOES’s consent to the motion. Opp. to Mot. to Remand at 6. However, the proceedings in a Petition for Review of an Agency Decision are governed by Superior Court Civil Rules of Procedure – Agency Review. Rule 1(h) identifies the additional Civil Rules of Procedure that are applicable to such proceedings, and Super. Ct. Civ. R. 12-I is not included. *See* Super. Ct. Agency R. 1(h).

Geoffrey H. Simpson
Elbert Maxwell
Bruce A. Frederickson
Cedar P. Carlton
Counsel for Respondent

Frank McDougald
Andrea Comentale
Counsel for Intervenor

Filed
D.C. Superior Court
10/03/2017 13:00PM
Clerk of the Court

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION**

District of Columbia	:	
Department of General Service	:	
	:	
Petitioner,	:	Case No. 2016 CA 006901 P(MPA)
	:	
v.	:	Judge Robert R. Rigsby
	:	
District of Columbia	:	
Public Employee Relations Board,	:	
	:	
Respondent.	:	

ORDER

This matter is before the Court on the District of Columbia Department of General Service's Petition for Review of Agency Decision, filed on September 15, 2016. Petitioner requests that the Decision and Order of the District of Columbia Public Employee Relations Board be reversed. Upon consideration of Petitioner's Motion and the entire record herein, the DGS' Petition for Review of Agency Decision is **GRANTED**.

BACKGROUND

On June 27, 2014, the District of Columbia Department of General Services (hereafter "DGS") petitioned the District of Columbia Public Employee Relations Board (hereafter "PERB") for a Unit Modification pursuant to D.C. Code §§ 1-617.09-10 and 6B DCMR §504. DGS began operations in the Fall of 2011, as a result of a merger of the Office of Public Education Facilities Modernization and the Department of Real Estate Services as well as the transfer of employees from other agencies whose classifications support the mission of DGS. DGS, as it is presently constituted, is composed of seven divisions, one of which is Facilities

Management (FMD), and it was to the division that the trades, crafts and manual labor employees of four city agencies were transferred. The petition is limited to the Facilities Management Division (FMD) and the unit sought is composed of “all employees occupying a trades, craft or manual labor position” in FMD. At the time of the amended petition, the employees in this unit were represented by six unions (AFGE Local 2741, AFGE Local 3444, MPD, AFGE Local 631, AFSCME Local 2091, Teamsters Local 639 and Teamsters Local 730). DGS sought a “unit modification” to rationalize union representation at DGS consistent with the principles outlined in D.C. Code 1-617.09 and 1-617.10 as six unions represented employees with overlapping functions and identical classifications. AFL-CIO Local 631 and AFSCME Local 2091 filed motions to dismiss DGS’ petition.

PERB Executive Director Clarene Phyllis Martin issued a decision on January 8, 2015 which denied the labor unions’ motions to dismiss. A hearing on DGS’ petition was held and the PERB Hearing Director recommended that the Petition for Unit Modification be granted. PERB reviewed the Hearing Examiner’s Report and the record, concluding that it did not have jurisdiction to decide the Petition for Unit Modification. PERB concluded that the amended petition was substantially a request for a unit determination which did not meet the statutory requirements in section 1-617.09a. DGS then moved for reconsideration and PERB denied that motion. Subsequently, DGS filed this Petition for Review of Agency Decision. Labor unions, AFSCME 2091 and AFGE Locals 3444 and 2741 filed as intervenors.

STANDARD OF REVIEW

Sup. Ct. Agency Rev. R. 1(g) provides that the Superior Court “shall not set aside the action of the agency if supported by substantial evidence in the record as a whole and not clearly erroneous as a matter of law.” *See also Stokes v. District of Columbia*, 502 A.2d 1006, 1010

(D.C. 1985). In addition, the Court must “base its decision exclusively on the administrative record.” Super. Ct. Agency Rev. R. 1(g); *see also Dupree v. District of Columbia Office of Emp. Appeals*, 36 A.3d 826, 830 (D.C. 2011) (quoting *Settlemyre v. District of Columbia Office of Emp. Appeals*, 898 A.2d 902, 905 n. 4 (D.C. 2006)) (further citation omitted) (explaining that the Court’s review is confined “strictly to the administrative record,” and the Court must affirm the decision “so long as it is supported by substantial evidence in the record and otherwise in accordance with the law.”). In reviewing administrative appeals, the Court of Appeals has stated that, “to pass muster, an administrative agency decision must state findings of fact on each material, contested factual issue; those findings must be supported by substantial evidence in the agency record; and the agency’s conclusions must follow rationally from its findings.” *Dupree*, 36 A.3d at 830 (quoting *Johnson v. District of Columbia Office of Emp. Appeals*, 912 A.2d 1181, 1183 (D.C. 2006)) (further citation omitted). “Substantial evidence is defined as ‘such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.’” *Hutchinson v. District of Columbia Office of Emp. Appeals*, 710 A.2d 227, 230-31 (D.C. 1998) (quoting *Davis-Dodson v. District of Columbia Dep’t of Employment Servs.*, 697 A.2d 1214, 1218 (D.C. 1997) (further citations omitted). Evidence is not substantial if it is “so highly questionable in the light of common experience and knowledge that it is unworthy of belief.” *District of Columbia General Hospital v. Office of Emp. Appeals*, 548 A.2d 70, 77 (D.C. 1988) (citing *Jackson v. United States*, 122 U.S. App. D.C. 324, 329 (1965)).

In reviewing a PERB decision, this court must defer to PERB’s factual findings if they are supported by “substantial evidence,” and defer to PERB’s interpretation of the Comprehensive Merit Personnel Act (CMPA) unless that interpretation is “unreasonable in light of the prevailing law, inconsistent with the statute, or plainly erroneous.” *Public Employee*

Relations Bd. v. Washington Teachers' Union Local 6, 556 A.2d 206, 207 (D.C. 1989); *Doctors Council of the Dist. of Columbia Gen. Hosp. v. District of Columbia Pub. Employee Relations Bd.*, 914 A.2d 682, 695 (D.C. 2007); *Fraternal Or. of Police/Dept. of Corrections Lab. Comm. v. D.C. Pub. Employee Rel. Bd.*, 973 A.2d 174, 176 (D.C. 2009). The amount of deference D.C. courts give to PERB decisions is substantial, the D.C. Court of Appeals explained that “even if, on our own, we would reach a different conclusion from the PERB's, we must defer to the PERB's interpretation unless it is clearly erroneous. In other words, “if the [petitioner] is unable to demonstrate that the PERB's decision is rationally indefensible, we are obliged to sustain it.” *Drivers, Chauffeurs & Helpers Local Union No. 639 v. District of Columbia*, 631 A.2d 1205, 1215-16 (D.C. 1993); *Fraternal Order of Police/metropolitan Police Dept. Labor Committee v. Government of the Dist. of Columbia*, 2008 WL 8566861; *D.C. Fire & Emerg. Med. Services Dept. v. D.C. Pub. Employee Rel. Bd.*, 105 A.3d 992, 996 (D.C. 2014).

DISCUSSION

The Court will not disturb a decision of the PERB lightly. This Court defers to PERB's factual findings if they are supported by “substantial evidence,” and gives deference to PERB's interpretation of the CMPA unless the interpretation is “unreasonable in light of the prevailing law or inconsistent with the statute” or is “plainly erroneous.” *Fraternal Or. of Police/Dept. of Corrections Lab. Comm. v. D.C. Pub. Employee Rel. Bd.*, 973 A.2d 174, 176 (D.C. 2009) (citing *Doctors Council of the Dist. of Columbia Gen. Hosp. v. District of Columbia Pub. Employee Relations Bd.*, 914 A.2d 682, 695 (D.C.2007)). Unless “rationally indefensible,” a PERB decision must stand. *Drivers, Chauffeurs, & Helpers Local Union No. 639 v. District of Columbia*, 631 A.2d 1205, 1216 (D.C.1993).

This Court will look to the plain meaning of a statute first, construing words according to their ordinary meaning. *Boyle v. Giral*, 820 A.2d 561, 568 (D.C. 2003); *D.C. Fire & Emerg. Med. Services Dept. v. D.C. Pub. Employee Rel. Bd.*, 105 A.3d 992, 997–98 (D.C. 2014); *J. Parreco & Son v. Rental Hous. Comm’n*, 567 A.2d 43, 45 (D.C. 1989). “The literal words of [a] statute, however, are ‘not the sole index to legislative intent,’ but rather, are ‘to be read in the light of the statute taken as a whole, and are to be given a sensible construction and one that would not work an obvious injustice.’” *District of Columbia v. Gallagher*, 734 A.2d 1087, 1091 (D.C. 1999).

The conflict at the heart of this judicial review of an agency decision is whether DGS’s petition below was for a unit determination or a unit modification. DGS, in its petition to PERB, sought certification of a new bargaining unit that shared a “community of interest.” A bargaining unit is a group of employees with a clear and identifiable community of interests who are represented by a single labor union in collective bargaining and other dealings with management. D.C. Code 1-617.09 - 1-617.10. A unit determination is:

The determination of an appropriate unit will be made on a case-to-case basis and will be made on the basis of a properly-supported request from a labor organization. ... The essential ingredient in every unit is community of interest. Provided, however, that an appropriate unit must also be one that promotes labor relations and efficiency of agency operations. A unit should include individuals who share certain interests such as skills, working conditions, common supervision, physical location, organization structure, distinctiveness of functions performed, and the existence of integrated work processes. No unit shall be established solely on the basis of the extent to which employees in a proposed unit have organized; however, membership in a labor organization may be considered as 1 factor in evaluating the community of interest of employees in a proposed unit.

D.C. Code 1-617.09. Only a labor union may seek a unit determination. *Id.* A Unit Modification may be filed by a labor organization, by an employing agency, or by both jointly and can be

sought “to reflect a change in the identity or statutory authority of the employing agency.” 6B D.C. Mun. Reg 504. An appropriate unit under the Comprehensive Merit Personnel Act is a unit that: “(1) possess a ‘community of interest’ among the employees and (2) promotes effective labor relations and efficiency of agency operations.” *District of Columbia Office of Unified Communications*, PERB Case. No. 05-UM-01, Slip Op. No. 786 at 5.

DGS argued that under PERB Rule 504.1(a), DGS could petition for a unit modification to reflect a change in the identity of the employing agency, a result of DGS’ establishment. Further, DGS argued that the proposed unit meets the burden of PERB Rule 504.2 as the employees in the proposed unit share a community of interest and if consolidated would improve labor relations and operational efficiency. R. at 1503-1520. PERB, in opposition, argued that DGS’ petition was for a unit determination and D.C. Code §1-617.09(a) narrowed the scope of the PERB’s broad jurisdictional powers under D.C. Code §1-605.02(1) to make unit determinations and, therefore, DGS, an agency and not a labor organization, could not move for a unit determination. As such, PERB ruled that it did not have subject matter jurisdiction over the Amended Petition.

This Court will look to see if the factual findings in PERB decisions are supported by substantial evidence and if the legal conclusions are reasonable. *Public Employee Relations Board v. Washington Teachers’ Union Local 6*, 556 A.2d 206, 207 (D.C. 1989). Here, it appears that PERB’s jurisdictional argument is not supported by substantial evidence and may be clearly erroneous as a matter of law. The Court finds that DGS’ petition was for a unit modification and PERB has ruled on petitions for unit modifications before. In *District of Columbia Water and Sewer Authority v. American Federation of Government Employees, Local 872, et al.*, the District of Columbia Water and Sewer Authority (WASA) filed a Petition for modification of 5

bargaining units into one. The five units were separately represented in terms and conditions of employment. PERB case no 03-UM-03, Op. No. 898 (2007). WASA contended that the modification pursuant to PERB Rule 504.1(a) was “appropriate at this time to account for the ongoing significant and substantive changes in the identity, operations and authority” resulting from the creation of WASA in 1996 following agency reorganization. PERB case no 03-UM-03, Op. No. 898, at 2 (2007). PERB dismissed the Petition for Modification and denied WASA’s request for the consolidation of bargaining units.

Similarly, in *District of Columbia Office of Unified Communications*, D.C. Office of Labor Relations and Collective Bargaining (“OLRCB”) pursuant to PERB Rule 504 petitioned PERB for a Unit Modification, seeking to change the identity of the employing agency of two collective bargaining units which consist of employees previously employed by the District of Columbia Metropolitan Police Department and the District of Columbia Fire and Emergency Medical Services Department due to the transfer of these employees to the new Office of Unified Communications. PERB Case. No. 05-UM-01, Slip Op. No. 786. OLRCB argued that the consolidation was proper as the workers shared common working conditions, organizational structure, payment schedule and supervision. *District of Columbia Office of Unified Communications*, PERB Case. No. 05-UM-01, Slip Op. No. 786 at 5. PERB consistent with DC Code 1-617.10 and Board Rules 510-515 directed an election to determine which union would represent the new consolidated unit. *Id.* at 6.

Not unlike *WASA* and *OUC*, DGS came into being due to agency reorganization and consolidation and sought to have the labor units modified through consolidation. PERB’s decision in PERB Case No. 14-UM-02 lacks any explanation as to why DGS’s unit modification was designated as a unit determination. Given past precedent and its own rules, PERB appears to

have jurisdiction to make a decision on DGS' unit modification. Therefore, on review of the agency record and the agency's conclusion, this Court finds that there is not substantial evidence in the record as a whole to support the action of the agency. Therefore, the Court will remand the decision of the Public Employee Relations Board, PERB Case No. 14-UM-02 to PERB for analysis of the petition on its merits.

On review of the agency record and the agency's conclusion, this Court finds that there is not substantial evidence in the record as a whole to support the action of the agency and, accordingly, the action was clearly erroneous as a matter of law. Therefore, the Court shall set aside the decision of the Public Employee Relations Board in PERB Case No. 14-UM-02.

Accordingly, based on the entire record herein, it is this 3rd day of October, 2017,

ORDERED, that DGS' Petition for Review of Agency Decision is **GRANTED** and this matter is **REMANDED**; and it is further

ORDERED that the Status Hearing scheduled for October 6, 2017 at 9:30am is **VACATED**.



Judge Robert R. Rigsby

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D.C. Superior Court
02/09/2018 11:04AM
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**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION**

**METROPOLITAN POLICE
DEPARTMENT,**

Petitioner,

v.

**DISTRICT OF COLUMBIA PUBLIC
EMPLOYEE RELATIONS BOARD,**

Respondent.

**Case No. 2016 CA 9253 P(MPA)
Judge Michael L. Rankin**

ORDER

The Metropolitan Police Department (“the Agency”) appeals the decision¹ of the District of Columbia Public Employee Relations Board (“PERB”) dated November 22, 2016, affirming an arbitrator’s decision that reversed the Agency’s decision to terminate an employee for misconduct. Citing D.C. Code §1-605.2 (6) and PERB Rule 538.3, the Agency asserts that the arbitrator’s award is contrary to law and public policy. More specifically, the Agency argues that that the arbitrator’s conclusion that the MPD violated the so-called “90-Day Rule”² is contrary to law and public policy.

In this appeal, the standard of review requires the court to “base its decision exclusively upon the administrative record...and not set aside the action of the agency if supported by substantial evidence in the record as a whole and not clearly erroneous as a matter of law.” D.C. Super. Ct. R. Civ. P. Agency Rev. 1(g).

This case turns on whether a nine day period between the incident that led to the disciplinary action against the employee and the formal referral of the investigation to the United States Attorney’s Office by the Agency was subject to the tolling provision of D.C. Code § 5-

¹ See Decision and Order, PERB Case No. 16-A-18 (Nov. 22, 2016).

² See D.C. Code § 5-1031(a) - (b).

1031 (b). If so, the Agency acted within the confines of the statute; if not, the disciplinary action was outside the time limit by nine days. There is no factual dispute in this matter regarding what happened or when it happened. Rather, for purposes of this appeal, the sole issue is whether the arbitrator's conclusion that the Agency did not carry its burden of proof by showing that a criminal investigation was underway during the nine business days between January 20, 2011 and February 3, 2011, is a legal conclusion that is contrary to law or public policy. The court finds on the record before it that the arbitrator's decision completely ignored the undisputed evidence of a criminal investigation underway and drew a conclusion that cannot stand in light of D.C. Code § 5-1031 (b). In light of that finding, the PERB's decision to affirm the arbitration decision must be reversed.

To be clear, the record of proceedings shows that the arbitrator did not conduct an evidentiary hearing in order to make findings of fact. Instead, the arbitrator relied on the record developed through the two disciplinary hearings. That record established that the MPD was aware of the employee's misconduct (his decision to arrest a citizen without probable cause coupled with his excessive use of force) on January 20, 2011, the same day the misconduct occurred. That day, an official of MPD, Lieutenant Hodge, reviewed videotape of the incident and, importantly, notified the employee that his conduct had criminal implications. He advised the employee to notify his Union representative and notified the Internal Affairs Division of MPD. An agent was assigned to investigate the matter. The following day, January 21, 2011, the assigned Internal Affairs agent notified the Office of the United States Attorney for the District of Columbia of the employee's involvement in the incident. The record shows that two Assistant U.S. Attorneys received the information from MPD. The U.S. Attorney for the District of Columbia prosecutes all felony and misdemeanor criminal offenses committed in the District of

Columbia. On February 3, 2011, the Internal Affairs Division agent transmitted a preliminary investigative package to the Assistant U.S. Attorneys assigned to the case. Later in the year, the matter was presented to a grand jury; the employee was tried in the DC Superior Court and found guilty of simple assault. *See* Case No. 2013 CMD 008679 (on appeal). After the criminal case concluded, MPD initiated an administrative proceeding that led to the employee's separation from duty. He appealed to arbitration; the arbitrator reversed the Agency action and the PERB affirmed the arbitrator.

In spite of the uncontroverted evidence that a criminal investigation was underway between January 20 and February 2, 2011, the arbitrator concluded that the MPD had not "carried its burden of proof" of showing that the investigation was a *criminal* investigation. In his opinion (p.22), the arbitrator states: "But if the MPD sought to exclude the nine days immediately following the incident because the Grievant was the 'subject of a criminal investigation' it had the burden of establishing that fact on the record... Absent the articulation of such a finding the record does not rationally lead to a conclusion that the nine days were excluded ..."

These arguments by the Intervenor are not persuasive. First, it is true that the Arbitrator correctly cited the legal requirement for tolling that a criminal investigation be underway; however, it is equally true that he ignored the undisputed evidence that a criminal instigation was indeed underway. Intervenor, without further explanation, uses the modifier "actual" criminal investigation in arguing for affirmance of the PERB's decision to uphold the arbitration award. The implication being that there could be some other type of criminal investigation in the circumstances. The court is unaware that MPD or the USAO carries out fake or pretend

investigations. As far as the undersigned knows, when Internal Affairs Division investigators are assigned to investigate police misconduct, the investigation is “actual.”

Secondly, the argument that the arbitrator promoted the public policy behind the 90-day rule is a dubious one. The policy certainly is designed to avoid the agency unnecessarily delaying initiating disciplinary action such that an employee is prejudiced in defending him/herself. However, the policy also includes the MPD’s responsibility to have a full and fair process for rooting out bad apples on the force. Public policy includes protecting the public from individuals who have demonstrated their lack of fitness for positions in law enforcement.

Thirdly, the argument that the arbitrator reviewed substantial evidence in the record is belied by his conclusion that the MPD did not carry its burden of proof. A cursory review of the record clearly shows that an investigation of the employee’s conduct had begun, and it was not an administrative investigation, it was criminal—hence the involvement of the USAO.

This court, in reviewing the record, is left to conclude that the arbitrator was searching the record for a sentence that read: “a criminal investigation within the meaning of the 90 day rule was underway on January 20, 2011.” While it is true that the party claiming the tolling provision must carry the burden of showing that it applies, that burden is born by presentation of evidence, not mere words. The arbitrator’s conclusion elevates form over substance.

As the MPD states in its brief, “[t]he fact that an ‘investigative’ package was required to be submitted to the USAO in order for the matter to be criminally prosecuted inevitably leads to the conclusion that a criminal investigation had to occur. Since the package was being presented to the USAO for ‘prosecutorial merit,’ it is clear that this investigation was not an administrative one.” (Petitioner’s Reply Brief at 3).

Because a criminal investigation was clearly underway between January 20 and February 3, 2011, the nine days were tolled under the statute, and the MPD's disciplinary action against the employee was timely. PERB's decision is not supported by the record evidence, and its action and the arbitrator's decision are contrary to law and public policy. For these reasons, it is this 9th day of February, 2018, hereby:

ORDERED, that PERB's decision affirming the arbitration is **REVERSED AND VACATED**; and it is further

ORDERED, that MPD's action in terminating the employee is **REINSTATED**.

SO ORDERED.


Michael L. Rankin, Associate Judge

Copies to:
Counsel of Record
Via CaseFileXpress

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**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION**

DISTRICT OF COLUMBIA)	
METROPOLITAN POLICE)	
DEPARTMENT)	
)	
Petitioner,)	
)	Case No. 2016 CA 008659 P(MPA)
v.)	
)	Judge Hon. John M. Campbell
DISTRICT OF COLUMBIA PUBLIC)	
EMPLOYEE RELATIONS BOARD)	
)	
Respondent.)	
)	
)	

ORDER

This matter comes before the Court on the District of Columbia Metropolitan Police Department's ("MPD") Petition for Review of Agency Decision pursuant to Super. Ct. Agency Rev. R. 1. For the reasons discussed below, the Court holds that the District of Columbia Public Employee Relations Board's ("PERB") decision is OVERTURNED.

I. PROCEDURAL HISTORY

MPD seeks reversal of a PERB ruling affirming an arbitration award issued in Grievant Officer Justin Linville's favor. MPD issued its Final Notice of Adverse Action on November 2, 2009, terminating Officer Linville's employment. According to Officer Linville, he was never properly served with the notice, and did not obtain a copy until January 12, 2010. The PERB and Intervenor Fraternal Order of Police/Metropolitan Police Department Labor Committee ("Union" or "Intervenor") maintain that MPD's allegedly defective service violated the 55-day notice provision in the applicable Collective Bargaining Agreement. In light of these facts, an Arbitrator ultimately found that MPD violated the Collective Bargaining Agreement and,

therefore, Officer Linville's termination must be reversed. The PERB upheld the Arbitrator's decision.

After learning of his impending termination, Officer Linville sought to exercise his right to appeal MPD's decision. There are essentially two routes a grievant may take to appeal an adverse decision—(1) he may appeal the agency decision to the District of Columbia Office of Employee Appeals ("OEA"); or (2) with the support of the Union, he may appeal the decision to the Chief of Police and, if not satisfied, demand arbitration. *See* D.C. Code § 1-616.52(e) (2018) (allowing the aggrieved employee to pursue an OEA appeal or the negotiated grievance procedure, "but not both"). Pursuant to D.C. Code § 1-616.52(f):

An employee shall be deemed to have exercised their option pursuant to subsection (e) of this section to raise a matter either under the applicable statutory procedures or under the negotiated grievance procedure at such time as the employee timely files an appeal under this section or timely files a grievance in writing in accordance with the provision of the negotiated grievance procedure applicable to the parties, *whichever event occurs first*. (emphasis added)

The central fact in this case is that Officer Linville initially chose to utilize the OEA appeal process. More than a year later, he voluntarily withdrew his OEA appeal to pursue the arbitration process contemplated in the Collective Bargaining Agreement. Before this matter went to arbitration, MPD challenged the Arbitrator's jurisdiction because, pursuant to the D.C. Code, Officer Linville had chosen his exclusive avenue through which to appeal the agency decision – the OEA appeals process. Intervenor argued, and the Arbitrator agreed, however, that the particular notice issue in this case put Linville in a compromised position in which he was effectively deprived of sufficient time in which to decide which appeals process to pursue. The PERB upheld the Arbitrator's reasoning, stating that the Arbitrator did not exceed his jurisdiction

in deciding the arbitrability issue and that the award entered was not contrary to public policy or the law.

II. STANDARD OF REVIEW

The District of Columbia Superior Court has jurisdiction to review a final decision of a District of Columbia agency. *See* Super. Ct. Agency Rev. R. 1. The Court is prohibited, however, from substituting its own judgment for that of the agency. *Kegley v. District of Columbia*, 440 A.2d 1013, 1018 (D.C. 1982) (citing *Jones v. Police and Firemen's Retirement and Relief Board*, 375 A.2d 1 (D.C. 1977)). Rather, the Court generally gives deference to decisions rendered by administrative agencies. *Am. Broad. Cos., Inc. v. District of Columbia Dep't of Employment Servs.*, 822 A.2d 1085, 1088 (D.C. 2003) (citing *Springer v. District of Columbia dep't of Employment Servs.*, 743 A.2d 1213 (D.C. 1999)). This is done through examination of the administrative record “to determine if there has been procedural error, if there is substantial evidence in the record to support the action of the agency, or if the action is in some manner otherwise arbitrary, capricious, or an abuse of discretion.” *Kegley*, 440 A.2d at 1019. Substantial evidence is defined as such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. *See Larry v. Nat'l Rehab. Hosp.*, 973 A.2d 180, 183 (D.C. 2009) (citing *Rodriguez v. Filene's Basement Inc.*, 905 A.2d 177, 180-81 (D.C. 2006)). Further, it is not the Court's function to retry the facts or rehear the evidence. *Hahn v. Univ. of the Dist. of Columbia*, 789 A.2d 1252, 1256 (D.C. 2002). The Court will normally defer to the agency's decision so long as the findings flow “rationally from the facts” and are “supported by substantial evidence.” *Am. Broad. Cos., Inc.*, 822 A.2d at 1089.

When reviewing PERB's decision, “[t]he findings of the Board with respect to questions of fact shall be conclusive if supported by substantial evidence on the record considered as a

whole.” D.C. Code § 1-617.13(b) (2018). When the Court’s review extends beyond factual findings to legal conclusions, however, it reviews those conclusions “*de novo*, as ‘[the Court is] presumed to have the greater expertise when the agency’s decision rests on a question of law.’” *Washington Metro. Area Transit Auth. v. District of Columbia Dep’t. of Emp’t. Services*, 683 A.2d 470, 472 (D.C. 1996) (quoting *Harris v. District of Columbia Office of Worker’s Comp.*, 660 A.2d 404, 407 (D.C. 1995)).

III. ANALYSIS

The Court need not reach the merits of the Arbitrator’s decision and the PERB’s subsequent affirmance of that decision. As a threshold matter, the Arbitrator lacked the necessary jurisdiction to consider Officer Linville’s appeal. Therefore, the consideration of this case through the arbitration process was unlawful and the PERB’s decision must be overturned.

Both the PERB and Intervenor make arguments regarding the unique circumstances presented here, concerning the alleged service issue and the supposed effect this had on Officer Linville’s ability to meaningfully choose one review option over another. These arguments, however, are unavailing. First, the statutory language is clear and provides no exceptions: an aggrieved employee may elect an OEA appeal or a negotiated grievance procedure (including arbitration) “but not both,” D.C. Code §1-616.52(e) (emphasis added); and the employee is “deemed to have exercised [his] option” under that provision – to select one or the other avenue – “at such time as” the employee files his OEA appeal or pursues the grievance procedure, “whichever event occurs first,” *Id* §1-616(52)(f) (emphasis added). Officer Linville was able to make a choice, and did so – he chose the OEA appeals process. Under the statute, he must be held to that choice. Since the grievance process he later pursued, which culminated in the

arbitrator's decision, was unauthorized, the Arbitrator lacked authority to enter any decision at all.

Second, even if one were to assume that the Arbitrator had some limited authority to make findings regarding his own jurisdiction, the key finding here – namely, that because MPD failed to timely serve the notice of termination, Officer Linville did not have enough time to consider his options – does not follow logically from the record. Essentially, the Arbitrator found that MPD failed ever to serve Officer Linville with its final notice of adverse action; that Officer Linville just happened to find out about the decision on January 12, 2010, seven days before the deadline to file an OEA appeal (which deadline was 30 days after the supposed effective date of the notice); and that in the time available he decided to file a “protective” appeal with OEA, which he then withdrew once arbitration had begun.¹ The Arbitrator concluded that the shortened time period for deciding which grievance avenue to pursue effectively released Officer Linville from the invariant statutory mandate.

Even putting aside that there is no legal basis for such a conclusion, it seems to address the wrong question. Officer Linville did not argue that he was served too late to meaningfully exercise his statutory right to choose; he argued that he was never served at all. The nature of such a claim of non-service surely is that it can be asserted at any time, whenever it arises, whether before or after any deadline, and without regard to it. If, for example, having never been served (as he claims) he had accidentally learned of his termination after the January deadline for appealing, it seems unarguable under basic notions of fairness and due process that he still could have appealed, on the ground that the time period in question should be considered never to have started to run. This in turn means, however, that once he did make his initial and (under the

¹ Notably, he did not withdraw the OEA appeal until November 2012, long after the arbitration had commenced.

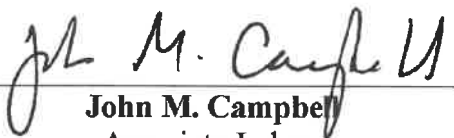
statute) exclusive choice to pursue an OEA appeal, it is fair to hold him to it. After all, that appeal included his argument that he had never received proper notice as required by law. The Arbitrator's "jurisdictional" finding that Officer Linville had no meaningful choice, then, is unsupported and in fact is inconsistent with the nature of the Officer's argument.

Therefore, it is this 23rd day of October, 2018, hereby

ORDERED, that the Court finds in favor of Petitioner MPD; and it is further

ORDERED, that the PERB's decision is OVERTURNED; and it is further

ORDERED, that Officer Linville must seek a remedy through the OEA appeals process, which he chose to pursue first.


John M. Campbell
 Associate Judge

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